S. Hrg. 101-247, Pt. 3

REPORT OF THE SENATE IMPEACHMENT TRIAL COMMITTEE ON THE ARTICLES AGAINST JUDGE WALTER L. NIXON, JR.

HEARINGS

BEFORE THE

SENATE IMPEACHMENT TRIAL COMMITTEE

UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

THE ARTICLES OF IMPEACHMENT AGAINST JUDGE WALTER L. NIXON, JR., A JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI, FOR HIGH CRIMES AND MISDEMEANORS

EXHIBITS ADMITTED INTO EVIDENCE

Part 3 of 4 Parts

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ON THE ARTICLES AGAINST JUDGE WALTER L. NIXON, Jr.

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IN THE SENATE OF THE UNITED STATES
Sitting as a Court of Impeachment

In re)
)
)
Impeachment of)
Judge Walter L. Nixon, Jr.)

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 1

Stipulation

It is hereby stipulated and agreed that the attached transcript of the interview of Judge Nixon conducted on April 19, 1984, introduced as Defendant's Exhibit No. 43A in U.S. v. Walter L. Nixon, Jr., Crim. No. 85-00012 (L), and thereafter revised per agreement of the parties, fairly and accurately records the questions posed and the answers given during the interview.

Stipulated and agreed to this 29th day of Feby, 1989.

Alan I. Baron (RK)
Alan I. Baron
Special Counsel
on behalf of
the United States
House of Representatives

David O. Stewart
David O. Stewart
Ropes and Gray
on behalf of
Judge Walter L. Nixon, Jr.

DEFENDANT'S EXHIBIT 43A

WHITE-SPUNNER: This is ah SA K. P. WHITE-SPUNNER, JR., and the time is ah 3:40 PM. This is April the 19th, 1984, and I'm in the chambers of U. S. District Court Senior Judge WALTER L. NIXON, JR., Chief Judge WALTER L. NIXON, JR., ah with REID WEINGARTEN of the U. S. DEPARTMENT OF JUSTICE, and we're all knowledgeable and agree that this conference will be tape recorded.

WEINGARTEN: What, what is your relationship with WILEY FAIRCHILD, if, if you don't mind my asking.

NIXON: Well, the only relationship with him is ah I know him and have known him for some time and ah have ah made an investment with him ah in ah three oil wells, three, three wells, and ah one is, two are producing, and on ah is ah not producing much at all.

W: Is it fair to describe him as a friend?

N: Not a- Well, I don't know whether you'd call him a friend or an acquaintance. He's not unfriendly, but he's not a, a close friend-

W: Have you been to his house-

N: No-

W: Has he been to your house?

N: Definitely not-

W: Have you been to his business?

N: I've been there just in connection with this, yes.

W: Okay. How long have you known the man?

N: Well, I've known of him for years, but I really know him as well as I do now, I guess, for the last ah, well, about the time that I made this investment or shortly before.

W: Okay, why don't you just begin-

N: Shortly before-

W: How did the investment come about? Why don't we start there-

N: Ah CARROLL INGRAM, ah, ah-

W: Who is he, why don't we identify him?

N: He's an attorney in Hattiesburg. Ah CARROLL ah and I were talking, and ah I, ah- We got to talking about ah, I think ah investments in oil and gas of some production he had of something. And ah I told him I would be interested in ah, in ah investing some time, and, you know, and go with him on something if ah, with my own fair share, putting up my money, and if, if he found out that it might be, look promising, in, in order to supplement my income as United States District Judge.

(Answers telephone) Uh-huh. Okay. I'll ask these gentlemen to excuse themselves then for a minute. Would you excuse yourselves a minute, please, gentlemen (unintelligible).

W: Excuse-

WS: Uh-huh.

W: When we broke last, we ah, you were explaining to us how the, it was the evolution of ah your involvement with the oil wells.

N: That's right-

W: Please continue.

N: Well, that's about the size of it, and two of the wells were fine. The other one wasn't worth a darn.

W: All right, what were the circumstances that got you involved with Mr. FAIRCHILD?

N: Well, CARROLL INGRAM told me he was investing in them or investigating, and I think he, he ah apparently represents him, and I think they're real close friends, from my understanding, maybe some kin. I'm not sure. Senator INGRAM, former Senator CARROLL INGRAM.

W: Is he your lawyer, Mr. INGRAM, in any respect?

N: Is he what?

W: Has he ever represented you?

N: Oh, no, uh-uh.

W: Ah, did you actually meet with Mr. FAIRCHILD and discuss the ah-

N: Uh-huh-

W: Investment?

N: Yes.

W: Can you describe that?

N: Oh, not ah, in detail, except we talked about it. He's, he's a hard man to talk, ah understand really. He kinda talks sometimes in riddles, and I don't say that derogatorily or in a disparaging manner, but ah he just said well ah there are gambles- If I wanted to go with it, fine. And I told him well CARROLL recommended 'em, so I was willing to gamble. So I borrowed the money, and I invested, and ah instruments were executed and recorded.

W: Okay. Ah, where did this transaction take place, at his place of business?

N: I don't remember where it was finalized, but ah that's where we talked, yes, uh-huh.

W: Ah, generally speaking, what were the terms. What did you give and what did he give?

N: I think with the, it was broken down. If I had my records before me- It was ninety-five hundred dollars for the three.

W: Okay-

N: Investments.

W: Ah, do you remember when all this took place, the dates (unintelligible)-

N: No, I do not, but it was a few years ago. I say, maybe two or three.

W: Let me ah show you some.

N: The instruments are recorded, and, of course, they speak for themselves-

W: Sure. The instruments ah, of course, are royalty fees-

N: Uh-huh-

W: I think I just have two. Why don't you take a look at these-

N: All right-

W: And see if these comport with your- I'm, I'm sure they do, just to be formal about it.

N: (Unintelligible) over 4 years. Time flies. I guess that does figure-

W: Is that accurate? I mean, you're gonna- I'll, I'll explain to you in one second why the dates are important, but is it your recollection that you received those in February, 1980?

N: No, I don't remember exactly when. Ah, I would- I'd just be guessing. I don't recall.

W: Ah, as best you can-

N: I think the-

W: I know a million things have happened to you since February, 1980-

N: There have.

W: Ah, do you think four and a half years have passed since you received those deeds?

N: I don't know whether everything was finalized in writing at the time or not, or whether it was subsequently put into writing to, to, to, to comply with what had taken place. I don't recall, honestly.

W: Sure.

N: I honestly don't-

W: I know it, when you-

N: It was somewhat unorthodox though. I

recall that.

W: All right. What was unorthodox about it?

N: The, the whole deal- I mean, you know, the, what, the time between the, the whole discussion with him and the investment, and I didn't know whether it was ever paying off or what was happening for a while, and, and ah it started out very good. I think it was about, bringing about seventeen hundred dollars a month, and then now I think it's down to about eight or something like that. And one of 'em just didn't pan out at all.

W: Have you ever invested in oil and gas prior to this?

N: No.

W: So this was brand new.

N: It was brand new to me.

W: And, were you relying on the representation-

N: I say no. I think when I was practicing law some seventeen or eighteen years ago- I've been on the bench almost sixteen years. That was a, we supposedly had a producer, but our, my cost of the expenses was more than what I was getting out of it-

W: So that was unsuccessful-

N: And I thought I'd never do it again, but I-

W: Well whose counsel were you relying on as far as this investment?

N: CARROLL INGRAM.

W: Not Mr. FAIRCHILD?

N: No. I say, not ul- I guess ultimately I was, you know, but ah CARROLL just ah assured me that Mr. FAIRCHILD had been very successful in the oil and gas business, and he thought it would be a good investment.

W: Okay. Let me show you some promissory notes that-

N: Okay-

W: You've collected now.

N: Okay.

W: Ah, should be of some importance too. I believe there're three, and I think you've described what-

N: Okay-

W: Added 'em up to ninety-five hundred dollars, and that certainly is what those three documents add up to.

N: Okay.

W: It, to your recollection, is that, are those the documents?

N: Ah, I would assume so. That's my signature on them-

W: Sure. And again, the date is February, eighty.

N: That's right.

W: Is that when you incurred the liability?

N: I don't recall whether the liability was incurred- I say the liability- the word was given or, or, or the transaction was completed. I don't know whether it was simultaneous with this or not. That's why I'm saying it was something unorthodox about the- Because I was so busy. I don't know whether it was ever put into writing or exactly what did occur, frankly.

W: All right, the fact-

N: One of the, one of the biggest shortcomings and faults I have is I don't, I'm, I don't devote as much time to my business and financial affairs as I should because of my judicial duties, and that's been a real problem with me, I think.

W: Well, is, is there a possibility that in fact the transaction that is presently in your hand the, the purchase of these royalties occurred a year later in February, eighty-one?

N: Oh, no, it couldn't have.

W: Ah, do you remember any discussion of backdating the documents to February, eighty?

N: No, I don't recall whether there was or not. I, I think I would, but, but there was such a- I don't know.

W: To, in an effort to resolve this without troubling you-

N: Okay-

W: We received your financial disclosure report-

N: Uh-huh-

W: Which you filed with the court,
like every other federal judge-

N: Uh-huh-

W: And every other congressman,
and, and many federal officials,
as a matter of fact.

N: Right.

W: Ah, the FAIRCHILD-

N: Including, including Mr. MEESE.

W: Including Congressman GEORGE HANSEN
who I just prosecuted-

N: Oh, yeah, uh-huh-

W: (Unintelligible) financial disclosure (unintelligible). The ah, what we noted is that
the statement that you filed in eighty-one-

N: Uh-huh-

W: Reflecting your financial activity in
eighty-

N: Uh-huh-

W: Does not include the FAIRCHILD business.

N: I don't know why it wouldn't. The CPA
must not have picked it up. Did the
following one reflect it?

W: The following does, I think-

N: Well I, I guess that's ah- My CPA,
unfortunately, is deceased now. I could
talk to him- CHARLES LOGAN. He died of a

heart attack in, in his forties-

W: I hope not doing your business-

N: No, I hope not too. It wouldn't, my business wouldn't have taken him that-

W: All right, let me just explain-

N: (Unintelligible)

W: On eighty-two-

N: Uh-huh-

W: Apparently what happened is you filed the statement and you described oil and gas ah interests in general, and I guess Judge TAMM from the Judicial Ethics Committee wanted more specificity-

N: Uh-huh-

W: And then there are included the overriding royalty interests of W. R. FAIRCHILD CONSTRUCTION COMPANY, LIMITED, which, I presume, are those interests.

N: I would assume-

W: You have any other interests with FAIRCHILD?

N: No, no, no.

W: And it indicates that the date that-

N: The three wells, okay-

W: Right-

N: Okay-

W: The date that they were purchased was February 25th, 1981, not 1980.

N: I don't know, unless the wrong date is on here, year-

W: Okay-

N: I, I don't know. I- As I say, I don't recall eighty, or eighty-one, or what, but if they- I just don't- I frankly don't recall whether this is the correct date or, or what.

W: Okay, without suggesting any impropriety on your part, believe me, we're not suggesting that by this question, but we have reason to believe that in fact you incurred liability, and you received the royalty deeds ah well after February, eighty, the reflected time of those documents. And, is there a reason that you know of that that may have taken place?

N: Not that I can recall.

W: We have checked ah where the deeds are filed-

N: Uh-huh-

W: And they are filed of record long after February, eighty, in fact, in some instances not until eighty-two.

N: Well, that would, I guess that would be my fault because-

W: I don't know, I'm not saying, I'm not suggesting it is-

N: Ah-

W: It could be someone else's fault-

N: I could have, I could have just overlooked it, or it could have been overlooked. I, I don't know, but I guess- Well, as I told you, I'm not the best businessman in the world, and because of the pressing judicial duties, many times I neglect my own personal financial affairs-

W: I mean, frankly what we're looking for is, is an explanation-

N: Frankly-

W: Of, for why this- If it in fact happened, why it happened, so that we can put this to rest.

N: Right. I don't know.

W: Would anyone know that we could- I mean, would CARROLL INGRAM know?

N: I don't know that. I could ask him.

W: Well probably, it- I mean, if we're gonna conduct the investigation, it'd probably be more wholesome if we do.

N: Well-

W: I mean, and, and I, I don't know-

N: That's your, that's your prerogative-

W: Sure, I understand. Ah, when you mentioned the word unorthodox, I thought perhaps the explanation was gonna follow as to why this would have occurred.

N: No, I don't recall one way- I, I really don't.

W: Do you recall when you started receiving royalties?

N: No, I do not.

W: Would there be records that would reflect that? I suppose there would be.

N: Sure, certainly.

W: I mean, we don't have the complete records, but we think you didn't start receiving royalties until eighty-two.

N: Well maybe- I don't know. Maybe these were- Maybe- As I said, the date may be wrong on these. I don't know.

W: Okay. I don't know if this will help or not. We pulled the royalty division order which, I suppose, triggers the, the payments. They reflected January 19th, 1982.

N: Uh-huh.

W: I mean, does that help anything?

N: I do seem to recall that there was some problem with the division order, or getting the division orders or something, and I don't recall what it was, very frankly.

W: Maybe this will help. When you, when you would receive your royalty payments, would they come from FAIRCHILD, or would they come from EXXON or TEXACO-

N: I think they came from FAIRCHILD CORP.

W: Did that have anything to do with the problem?

N: I don't know, and I honestly, you know, I, I just don't know. If I knew, I'd certainly tell you.

W: Sure.

N: That's what I'm talking about. All the, when I say unorthodox, it, it was- The division orders came later or some reason. Ah, I don't recall whether it was the ah, but I think the checks were coming from FAIRCHILD, and they may have been- I don't know whether they were coming later or what, or whether-

W: Did they continue to come-

N: It was before-

W: I mean, is this an ongoing situation? Do you still retain-

N: Yes, yes-

W: Those interests?

N: Yes, I do.

W: Do you have a clue- As you sit here, what the total, ah, the total amount of money you received on the three wells?

N: No, I don't. It could be easily reconstructed though-

W: I mean, would it be considerably more-

N: All by check-

W: Than the ninety-five hundred dollars?

N: Oh, yes, by this time, certainly.

W: And is, is there an expectation that these will- I mean, I think you described one as a bummer, and-

N: There's a hope.

W: There's a hope.

N: There was an expectation, a very great expectation that it would continue to ah bring in the income it originally did.

W: Are all three wells-

N: That's, that's-

W: Stinkers or-

N: No, ah one, one was a bad one, and the other two were pretty good. That's what I said, but the, but I guess it's because of the ah industry in general, like the ah- I don't know whether they were ah, whether the production was cut back or whether no sale for the products, or exactly what it was, but ah the ah, the ah- I think I'm receiving now about half of what it was originally bringing, those two ah-

W: Okay, I mean frankly ah part of the allegation-

N: I was disappointed too-

W: Well part of the allegation was received was that it was a gross imbalance between what you paid for and what you received. Now do you have any comment on that?

N: No, I don't. That's, I, I'm not familiar with the oil and gas business, and I hoped that it would be a good business investment, and it has been a pretty good investment, ah one of the very few that I've made outside of my judicial, I mean, have made period-

W: Who-

N: That's ever paid anything.

W: Who would you say would have been the moving party to get you interested in these particular leases. Would it have been Mr. INGRAM-

N: Yes-

W: Or would it have been WILEY FAIRCHILD-

N: CARROLL INGRAM. He's the one I talked to about it and asked about it. I didn't have any, any dealings at all with or previous dealings or connections with WILEY FAIRCHILD.

W: And who would have selected- I'm sorry-

WS: No, go ahead-

W: Who would have selected the actual site- I mean, I'm sure you didn't know the actual property or visited the actual-

N: No, I didn't-

W: Property you purchased- Who was responsible for that?

N: CARROLL INGRAM. I guess. I don't know whether visited it or anything, but he told me that he thought it was a very good investment, and could guarantee nothing, of course. I told him I certainly understood that, and I knew it was a gamble, but I, I would ah, I would like to travel with it because ah I would, I am, was, and still am in dire need of supplemental income to supplement my judicial salary. I've got a daughter in college, and ah we've got four children at home now, ranging from seven to eighteen.

W: I know how difficult that is. Ah-

N: And that's, that's the reason.

W: Say, is it fair to say that you were relying on his recommendations?

N: Yes.

W: And the transaction turned out well, obviously.

N: That's right.

W: Our records reflect that the one, the note, the ninety-five hundred dollar note- It was not paid back until, or payments did not begin- I, it's all paid back now, is it?

N: Yes.

W: Did not, did not begin until eighty-two. Now the note, of course, is dated February, eighty, and we get back to this backdating business. Maybe, does that trigger some-

N: No, I, I don't recall.

W: When you met with FAIRCHILD, ah, did he make any representations about the well?

N: He didn't, nothing, not much of a-assurance at all. He thought they might be good. He thought they were, but he explained to me that it was a gamble, and I knew that already, of course.

W: Well the, I think the records will reflect that the note did not begin to be paid back until after royalties started coming in in eighty-two.

N: Right.

W: Was that part of the deal, that you would not have to pay back money until the oil wells started producing for you personally?

N: I don't, I wouldn't think so, no.

W: I mean, was it an arms-length transaction between you and FAIRCHILD?

N: Far as I know it was. Far as I'm concerned, it certainly was.

W: Did he have anything on his mind that he wanted with you-

N: You'd have to ask him because he's never asked-

W: I mean, did-

N: Anything that or demanded anything. Of course, anything to do with his son's case absolutely had nothing whatsoever, 'cause I don't, I'm not even aware of really what that's about. I think I read something in the paper one time about it since then.

W: Did you-

N: But if you can-

W: Detect anything-

N: If you can detect or know of anything at all where I ever had any connection with his son's case or the disposition of it or handling of it or anything to do with it, I sure wish you'd tell me, and I'll-

W: I, well, I-

N: Because there has-

W: I can assure you, we have no information to that effect-

N: There has, because there has been nothing.

W: No, I, I guess what I'm asking you is whether or not you detected anything untoward from either-

N: Abso-

W: Mr. FAIRCHILD-

N: Absolutely not. If I had, I'da pulled back immediately and wouldn't have had a darn thing to do with it.

W: Did you know at the time- Well, I guess INGRAM represents FAIRCHILD in certain matters?

N: I think so. They may be kin, but they're very close, and I mean he represents him, I know, and-

W: Did he represent his son at all in, in, in this or any other procedure that you know about?

N: I, I have, not, not to my- I have no idea. If I answer that one way or the other, I wouldn't be telling the truth because I don't know. I've never heard him mention it.

W: Could you give us just a rough figure as to the total amount of money you received from these wells?

N: No, but it's of record. It's all by check.

W: I mean, obviously, we can find it-

N: Sure, sure-

W: I just thought, thought you'd know-

N: I wish I could. If I had ah-

W: Sure-

N: The records here, I'd tell you where they are.

W: Just so I can make sure I know- What, one-

N: All right-

W: I guess there's a Union oil well in what county would that be, KEN?

WS: Union oil well-

W: One in Covington County, and there's on in Mobile County, Alabama, and there was one in ah-

WS: Marion County-

N: Marion County-

W: All right, that would be the GETTY-

N: I think Covington was the buster, the bummer-

W: Okay, which, of the EXXON or the GETTY, the Marion County or the MOBIL well, which is Mobile, which was the better one?

N:	They were both good, and they were comparable to begin with, and one's a little better than the other now. I think-
W:	And which one of them-
N:	I think it's Mobile now, but I'm not positive. I know they were-
W:	But they're on the decline.
N:	Well they, they've declined from the initial income, about ah half or less, much to my chagrin I'll say.
W:	Sure. Do you recall, thanks- If you recall Judge TAMM's ah communication with you asking for specificity on the FAIRCHILD wells?
N:	I remember some ah, ah in- Well, almost every year we get something back that-
W:	Do you fill these out yourself, or do you have someone fill them out for you?
N:	I had my CPA, CHARLES LOGAN, do them.
W:	And I guess you supervised it, and you provided him with the info, and you check it?
N:	Well, if the info was available, and, as I say I'm a poor businessman, and I don't take care of my own business as, as I should. I've been, I don't know why, but I, I guess it's because of the pressing duties of the office, really. It, it's, it's ah, it's surprising to a lot of people, but ah that's the way is-
W:	Not to a lawyer, not to a lawyer who's very familiar with the federal system, believe me.

I guess the obvious question that I have is did that communication with Judge TAMM and the requirement that you specify the wells more particularly than you had before trigger anything in you mind that would help with this question about the possible backdating?

N: (Unintelligible)

W: Do you recall ah-

N: I certainly would have never tried to ah hide anything. Everything I know of is of record.

W: I mean, frankly, Judge, the situation we have is this. The, the notes are dated February, eighty-

N: Uh-huh-

W: The deeds are noted February, eighty. By the objective evidence, including your financial disclosure statements, it appears that you didn't get involved in this until a year later, and it appears it took some time after that until you, you began receiving monies and until you paid back the notes.

N: Unless the wrong date was on 'em, I don't know. I really don't.

W: Who would have handled the papers. Who, would you have done it yourself, or would CARROLL INGRAM have done it or somebody else?

N: I think CARROLL handled the thing for me, the best of my recollection.

W: Just to-

N: But I wasn't in it with CARROLL. I just invested, invested-

W: Does he have oil and gas interests with Mr. FAIRCHILD?

N: I don't know for sure. I would assume it, but I don't know.

W: Would he have been the one who suggested to you that FAIRCHILD is a successful man and-

N: Certainly, right, and I knew of FAIRCHILD, but I didn't, I never did know he was in the oil business. I always thought he was in the contracting business only. And I, as I say, I think I had possibly met him before, but I didn't ah-

W: Do you recall, as you sit here, how many sit-downs you would have had with him concerning these specific leases?

N: No, I don't-

W: Would it, would-

N: It was more than one-

W: There have been more than one?

N: Yes.

W: Would they have taken place here or-

N: No, always at his office.

W: And would CARROLL INGRAM, on all occasions, have accompanied you?

N: I think CARROLL did one time. I think so.

W: But there were occasions when you sat down with the man, yourself, and discussed this?

N: Yes, uh-huh.

W: And was any other pos-

N: To the best of my recollections, I-

W: Was there any other possible business that you discussed with him other than these three wells? I mean, would-

N: Not to my knowledge. I certainly never discussed anything about his son's case.

W: All right, I mean legitimate business-

N: Not to my-

W: Investing somewhere else-

N: Ah, at one time he said he had another well that might be real good if I was interested in investing, and he'd be in touch with me, but he never has- It had to do with some- I forget what they call it. Had school in the name, school land profits- Something, some, something to do generally, but ah he never did ah get in touch with me on that.

W: Have you sought him out to get back involved in business?

N: Not to my recollection. I've talked to him very sporadically on the telephone, but an-

W: Would it be in connection with your wells?

N: Yes, mainly, I wondered why the production had dropped, of course, the income had dropped, that is, but specifically what the situation was and what it looked like in the future-

W: All right-

N: With respect to the-

W: As best you can, when was the last time you spoke with him-

N: Oh, several months ago-

W: With Mr. FAIRCHILD.

N: Yeah.

W: As you sit here, do you have a recollection why ah the note would be dated February, eighty, and I don't think you-

N: No, I-

W: Began paying the note back until early eighty-two?

N: No, I really don't, honestly.

W: Was the payback prompted by FAIRCHILD in any way?

N: Well I, how do you mean, was it prompted-

W: Called up and said ah this note's outstanding. I want you to start paying back interest or some, something like that?

N: I don't recall. I don't recall whether it was. But ah-

W: Frankly ah-

N: I neglect my- I'm getting back on it. It sounds like a broken record- but I neglect my business so badly, my financial business, believe me.

W: Sure. Ah, frankly, ah BUD HOLMES' name has come up in this. Ah he was the DA who eventually received and took over-

N: Uh-huh-

W: The FAIRCHILD son's case, and ah what's your relationship with him?

N: Very good friend.

W: Ah, business-

N: From way back. I remember the first time I met BUD. I was trying a, a civil damage suit in Harrison County Court, and the reason I remember it is he told a lot of people about it, and I was very successful plaintiff lawyer, and he came in there as the, the jury was out or just about to go out. He came- I think I had a pretty good reputation representing the poor man, and ah he came in there, and he had a little case that he was trying to get settled. I think ah, I think RAY BRYANT was defending (unintelligible) one of the two, and they, BUD was telling me about him. He introduced himself and said that ah he didn't ah, ah they wouldn't pay him near what it was worth, and so I told him, well BUD, just go tell 'em ah I'm gonna help you with the case, and he did, and he got it settled, and he tried to give me part of the fee, and I wouldn't take it, and he said, he said-

W: That, that's the lawyer with a good reputation.

N: Didn't, didn't, didn't know how much that he really appreciated that when he needed it so badly. From then on we've been very good friends, and I forgot about the incident until he told about it a few years ago, frankly.

W: Do you have any business relationships with him?

N: With BUD? No.

W: You're just good personal friends?

N: Uh-huh.

W: Ah, has he ever discussed cases with you while he was DA?

N: What kind of cases?

W: His cases, the criminal cases in his court.

N: I think a few murder cases we discussed.

W: Now, the obvious question, Judge, did he ever discuss the DREW FAIRCHILD drug case with you?

N: Not to my recollection. I think I would recall it-

W: Okay.

N: If he had.

W: Sitting here now, and I know it's a long time ago-

N: Uh-huh-

W: I tell you that ah, the airport bust was August, 1980. Ah, that, I tell you that originally the case was a federal case, got passed to HOLMES.

N: How did it get passed, what, what happened?

W: Well-

N: I don't know anything about it-

W: Frankly, that's-

N: I'm, I'm, interested. I'm curious-

W: Frankly, that's a very good question, and it's quite a ah, what we're looking at here. Ah, I think it's fair to say that with the present administration there's a strong policy toward the federal government sharing its cases with local prosecutors, spread the wealth around so that-

N: I see-

W: The federal prosecutors get interested-

N: I see-

W: And I know that the present U. S. Attorney has a strong predilection in that direction. Now it could very well be ah that ah HOLMES wanted the case for purely legitimate reasons. And certainly (unintelligible)-

N: Was it passed while he was district attorney?

W: Yes, and he received the case, and ah I tell you again to this day, it has not been resolved. Ah, do you have any recollection of discussing that particular case with BUD HOLMES?

N: No.—

W: As you sit here, do you have any notion as to who represented ah FAIRCHILD's son?

N: No. I don't know, much less any recollection.

W: Okay.

N: I don't know to this day, and I don't think I've ever known.

W: All right, let me tell you that of record, and I don't know what this means, but of record is an attorney named PORTER who I think was killed a short time ago-

N: BOB PORTER-

W: BILL PORTER?

N: BILL PORTER, right, I'm sorry, yeah, yeah.

W: Ah, this same series of questions- Did you know Mr. PORTER?

N: Yes.

W: He was, he was a practicing attorney in Hattiesburg.

N: Uh-huh-

W: And-

N: I didn't know him well. He just sat in my courtroom, or, or my chambers. I don't think he ever tried a case before me. I didn't know him very well.

W: So you knew him like you know every other attorney in Mississippi-

N: Correct, or even less ah, ah, ah- I'm, I didn't know him nearly as well as I do some attorneys.

W: And, obvious questions, Judge, did BILL PORTER ever come to you and discuss DREW FAIRCHILD?

N: Definitely not, absolutely not-

W: All right, and did the U. S. Attorney ah ever discuss the ah FAIRCHILD case with you?

N: Absolutely not.

W: I have to get a little (unintelligible)-

N: I understand, but I-

W: So (unintelligible)-

N: You know-

W: From the time of that bust until ba-basically me talking to you about the case-

N: Uh-huh-

W: You've had no connection, no knowledge of it, and no participation in-

N: Correct-

W: The DREW FAIRCHILD case?

N: Absolutely, except something I read in the paper. It was either an editorial or statement, or, or news article or something, a few years ago, I think-

W: To what effect-

N: About this case. I don't know. It was critical of the way it was handled or something.

W: Critical of the ah prosecutors?

N: Of, of, of- I, I, it was critical of the manner in which it was handled, something about ah it should be handled differently or he should be prosecuted, something should be done or he was being favored, or something to that effect. It was critical of the way in which it was handled, I believe. I, I'm pretty sure that I read that in, maybe in a Hattiesburg paper while I was holding court up there. It could have been the Jackson paper. I subscribe to it.

W: Do you have the clue if the criticism was directed to the feds or to the locals?

N: To the best of my recollection, I think it was ah, ah, I think it was directed to the locals, to the, to, 'cause I never did know it was a federal case. I didn't know it had ever been in the federal system.

W: Do you recall any knowledge of the case, meaning the FAIRCHILD case, while you were dealing with WILEY FAIRCHILD?

N: No.

W: And he certainly never brought it up?

N: Not to my recollection. I think I would recall that.

W: When you saw the article, did you put two and two together and realize that it was WILEY's son?

N: Yes, I think it stated it-

W: Even mentioned it?

N: Yes.

W: Is WILEY a prominent-

N: But I didn't remember the name. Even when you mentioned the name, whatever, what you say-

W: I think his real name is REDDITT-

N: I don't know-

W: And I think the people refer to him as DREW.

N: When you said the REDDITT FAIRCHILD, I didn't know what in the world you were talking about or who.

W: I think they call him that, and I think-

N: And I, I don't know him by any name. I don't know him, never met him, don't know what he looks like-

W: Never met him?

N: No.

W: Never saw him?

N: No.

W: Does he work with his father?

N: I have no idea. Didn't even know he existed, except from what I read about that and what you just told me. Absolutely no.

W: Okay.

(End of Side 1 of tape)

N: I think maybe payments were delayed or something and, and so I think the division orders- I asked why. I think I complained or, or asked about it. I think that's why the division order, so I get my check directly.

W: I think-

N: I should have been getting it-

W: I mean-

N: As I understood- I wasn't familiar with the manner in which these things were done.

W: Let me help you as much as I can on that-

N: All right-

W: To, to my knowledge there was some communication between the FAIRCHILD and the oil companies as to whether or not you would receive your check from him or from them-

N: Uh-huh-

W: I think that took place in 1982.

N: Uh-huh-

W: In addition, I think with some of CARTER's ah tax changes, there was a question about how much would be going to shareholders.

N: I see.

W: And I think this took place in eighty-two and eighty-three, and it doesn't clear up the question, why, if you received your interest in February, eighty-one, as reported in your financial disclosure statement, the deed and the note would be backdated.

N: I don't know, unless there was some error.

W: Do you have any suggestions as to where we should go? I mean it's our earnest desire to clear this up-

N: No-

W: Just as expeditiously as possible.

N: I can't recall anything about that, really.

W: Do you, I mean, is CARROLL INGRAM the, the meticulous kind of lawyer who might remember this?

N: I don't know. I don't know.

W: Do you have documents somewhere? I mean, I, I suppose if ah- When you put down February, 1981, on the financial disclosure statement, obviously, you were looking at a document that reflected that date-

N: Well, my CPA did that. I don't like to set blame like so many people do on my CPA, but that, that's the truth.

W: Okay. Well, then surely he couldn't have pulled the date out of the air. He was taking a document that reflected February, eighty-one. My guess is-

N: Well, unless the, unless I started receiving the income then.

W: No, you didn't receive income until even a year after that.

N: Let's see-

W: I get, my point is-

N: I don't know where CHARLES got it from. He must have had a reason (unintelligible). I don't know. Again-

W: I mean, I guess what I'm, what might have happened is that your documents accurately reflect the February, eighty-one time when you actually got the interest, and others may have backdated this for their own reasons.

N: I don't know. I'm- I really don't know.

W: Perhaps ah, if, if- I guess your, your papers are with a banker friend?

N: Yes. I don't think I'd have anything different than any more than what you have except check copies ahd-

W: I guess my thinking is that if the dates on your documents are different than the dates on the documents that we have. That might help explain who would be responsible for this.

N: I don't know. I'll check and see. I'll let you know if they are.

W: Okay, perhaps I ah, I'm gonna go back to Washington, but perhaps KEN can-

N: Okay. I, I'll get those back, and it'll take me a few days.

W: I mean, I, our earnest desire is to wrap this end of it-

N: I understand-

W: Completely, and often times judges are victimized by others-

N: Yeah. Well, I don't-

W: I mean, you're a savvy guy. You know that this happens.

N: Well, I don't know about that part of it, but all I know is ah nothing was done or nothing was ever mentioned about WILEY FAIRCHILD's son, and I defy anybody to, and I say defy, I don't mean (unintelligible), but I challenge anybody to show any connection of anything I've ever done in connection with WILEY FAIRCHILD's son's case I certainly would (unintelligible) to begin with. And if I even suspected something like that was going on, I certainly wouldn't have ah invested or have any dealings, absolutely.

W: Is there anything else about the transaction ah that just, on the top of your head, you could think of that may help us in this?

N: No, but why, why, how would my name come up, and how did it come up? That's, I think that's a fair question, that I had any kind of connection with WILEY FAIRCHILD's son's case?

W: Well, I, I, I knew as an intelligent, curious judge, you were gonna-

N: Sure-

W: Ask me that. Judge, it's a confidential informant. I mean, obviously, I mean, you've been in the system long enough to know that the FBI is duty bound not to reveal that kind of information. I can only tell you we receive these allegations all the time, and you know, we can't-

N: Well what's the allegation?

W: The allegation is that the FAIRCHILD case was mishandled, number one, and in the course-

N: By whom?

W: Well, that's loose, frankly, and, and we're obliged by the information to look at it from top to bottom, from the bust in August, 1980, until today. And that's, generally speaking, the allegation, and in the course of receiving the information, it was alleged as well that there was a, a, a transfer of property, an imbalance transfer of property to you from WILEY FAIRCHILD. That's the sum and substance of it.

N: Well (unintelligible) imbalance-

W: Imbalance in the sense that you turn- ninety-five hundred dollars from you to him and considerably more in the form of the royalty payments from him-

N: Well, I hope so. If it's a good investment, if you just get your money back, it's not a very good investment. Of course, a lot of people don't get their money back even, but ah I had assumed that when I invested I would make some money or I wouldn't have done it.

W: Sure. In the course of your dealings with Mr. FAIRCHILD-

N: I knew it was a gamble-

W: In the course of your dealings with Mr. FAIRCHILD, was there ever- Did, did you detect anything that caused you any ah concern?

N: Of what kind?

W: Ah, that, fast business practices or that perhaps in his mind he had an intention that didn't match yours in this business transaction?

N: No, if I had I, I wouldn't have invested with him.

W: And to this day and-

N: (Unintelligible)

W: In the course of your dealings it's, it's always been, your answer has always been the same?

N: Sure.

W: KEN.

WS: I, I had a question-

N: All right, sir.

WS: Going back- It, it may have been covered, really. When you first met with ah CARROLL and discussed anything, did he contact you first, or he (unintelligible)?

N: No, no.

WS: You went to him?

N: Yeah, I asked CARROLL one time. Ah, I, I said CARROLL if you run across any good investment of any kind- I didn't say oil and gas or anything-

WS: Uh-huh-

N: That you think may pan out, and I knew CARROLL was pretty good, I thought, businessman, from what I understood, and I knew he invested in properties and what have you. I said if there's room for investment, I said I want it to be above board and all clean. If you think that there's something good that I can make some money out of, income, either by investing in a piece of property and selling it later or any kind of income, any, any kind of investment. I may have mentioned oil and gas, among other things. I don't know. I said ah I wish you'd let me know because I'd be most interested in, in, in trying to invest in something where I could make a little money. It's- No, he didn't approach me at all, definitely not.

W: Judge, here's one thing I wanted to ask you about. On your eighty-three financial disclosure statement, the FAIRCHILD CONSTRUCTION COMPANY, LIMITED, interests are represented. The value is listed five to fifteen- I guess the value meaning how much you spent for it. Would that be what that reflects? You know what I mean here? Maybe I can show you. Okay here's the, the FAIRCHILD CONSTRUCTION LIMITED, and I guess this is the second one. That's not the very good- That's the one that's ah less than a thousand dollars.

N: My CPA filled this out for me. I don't know. He was a good CPA. I had a lot of faith in him, and ah frankly, I've never, you know, just didn't know how you were supposed to evaluate the-

W: Okay, well-

N: Something of that kind-

W: Do-

N: I can understand property, how you would evaluate that, piece of real estate or something like that, or stock that you might own-

W: Sure-

N: But ah I don't know still, frankly, how you would evaluate an oil and gas interest.

W: Well that, obviously that was my question-

N: Yeah-

W: And my guess was when you put value down five to fifteen, you were referring to the purchase price, or if not the purchase price, the, the ah, the-

N: I don't know-

W: Notes that you signed-

N: I don't know what CHARLES relied on when he entered that.

W: All right, and I guess-

N: I say CHARLES, CHARLES LOGAN, my CPA.

W: Obviously the, the question that was raised is the income is indicated between fifteen and fifty, and the value is between five and fifteen. It struck me how could that possibly be?

N: I don't know, frankly. I hate to be so dumb, but ah I don't know.

W: Okay, ah, I know that you were not prepared for this interview, and I know we're asking you about events-

N: (Unintelligible)

W: That took place a while ago. Is there anything else that you know about this that should know-

N: Not that I can think of offhand because, you know, some time ago. Ah, I still would like to know exactly what it is alleged that I'm supposed to have done or not done in connection with this ah-

W: Well, frankly, we have no information that you-

N: You know-

W: That the case was in your court, that you did anything wrong with it- What we have-

N: That's, that's what puzzles me. How-

WS: It was in Judge COX's court.

N: I see. Maybe Judge, maybe you oughta ask Judge COX (unintelligible)-

W: Well, he was never indicted. No, not Judge COX, believe me, Judge COX was never indicted. You would have heard about that.

N: (Laughter) No, but ah-

W: The other defendants in the ah, that were busted at the airport were assigned to Judge COX. They pled guilty. They were sent to prison. DREW FAIRCHILD was never indicted. His case got picked up by HOLMES, as I explained.

N: Why was it-Do you have any idea?

W: Well, that-

N: Was it presented?

W: No, it was not presented.

WS: There was a, he reached a ah memorandum of understanding with the U. S. Attorney. (unintelligible) So far as to arrive at that-

N: Uh-huh-

WS: And, along with his attorney, BILL PORTER, that was on November 19th, 1980-

N: Uh-huh-

WS: And the next significant thing that happened is he's indicted by a Forrest County Grand Jury in August of 1981. Some time between November of 1980 and August of 1981, that case, on DREW FAIRCHILD and another defendant who was a fugitive, was passed down to BUD HOLMES for handling.

W: Believe me. At this point we're not suggesting that there was impropriety in the U. S. Attorney's office or that there was impropriety by Mr. HOLMES. I mean, we have an allegation, and always in these cases our fervent hope that there's a logical, reasonable, legitimate explanation for all of these events. And, and we're at the inception of it, and one of the reasons we came to you is because we're not gonna be scurrying around your neighborhood and not tell you about it-

N: Right. Well I'm puzzled. I, I just don't know anything about it. I, I'm, I'm, I'm learning something about it now.

W: Okay, so I'm- Just to complete the picture-

N: That's what I was, that's what I wanted to ask you, what allegation- I've never heard, you know, never had the case, never heard about the case except what I told you, and ah certainly had nothing to do with it.

W: Sure. To complete the picture-

N: I don't think I could have influenced Judge COX. Do you? (Laughter) I don't think. Think maybe Mrs. COX, maybe, maybe.

W: Just maybe.

N: Maybe-

W: Well anyway-

N: And certainly, but, but, but seriously, I, I, it's, you know, it's just ludicrous to say I've had anything to do with this thing.

W: Well, Judge COX never had DREW's case, just so we're clear on that. The case was never indicted. He had all the co-defendants.

N: Oh, he never was indicted?

W: He was never indicted federally.

N: That's what I'm talking about.

W: When the case got transferred to the DA's office in Hattiesburg, he was indicted-

N: Well, it was never presented to the Federal Grand Jury.

W: Right-

N: Well, that's what I asked awhile ago-

W: Right-

N: Was it ever presented. I meant the federal grand jury-

W: No-

N: Obviously you said he was indicted in the state-

W: Yes, right. It was never presented federally-

N: I see.

W: And he pled guilty in January, eighty-two-

N: Uh-huh-

W: In December, eighty-two, eleven months later, the case was passed to the files, ah it's returned to file, from files to the active list, and he's never been sentenced. And of course now it's April, eighty-four.

N: Uh-huh-

W: You don't have to be a genius or a, a particularly sophisticated FBI Agent to wanna know why a case from August, eighty, has never been resolved to this day ah when the evidence appears to be extremely strong. That's the focus of the allegation. In addition, we received information from the same source that an- I don't wanna use the word sweetheart, but the word imbalanced financial relationship developed between this Mr. FAIRCHILD, DREW's father, and you, the chief judge of the district-

N: Uh-huh-

W: So here we are. Okay-

N: I don't know what influence the chief federal, dis-U. S. District Judge could have with this case. When, when-

W: Well, he-

N: When was, when was it transferred to the state? I mean when was it presented to the state or when was he indicted?

W: August, eighty-one-

WS: Eighty-one-

N: August of eighty-one?

W: Right.

N: And it was in the federal system when, originally, when did-

W: August, eighty-

WS: August of eighty.

N: Okay.

WS: It was still in the federal system on November 19th, 1980, and it was some point after that it was transferred down to-

N: How was it transferred? I don't understand-

W: Well, that's- Transferred- And this, I, I, I'm hopeful, and there's a reasonable expectation that the answer is simply that ah the U. S. Attorney here and U. S. Attorneys elsewhere in the present administration-

N: Uh-huh-

W: Welcome the opportunity to share their cases-

N: Well, I understand-

W: And that may well have happened here-

N: Uh-huh-

W: And we're gonna pursue it if, if we possibly can. Judge, the backdating- I mean, I'm sure as an intelligent man, you can perceive the importance now. If you entered into a business relationship with FAIRCHILD in February of eighty, as the deeds and the note reflect, that took place before the bust.

N: Uh-huh.

W: If you took, entered into the relationship in eighty-one, it took place after the bust. People can draw any conclusions they want from that, but that's the chronology. That's why we have to get to the bottom of when things occurred.

N: I understand, but regardless, what connection have I had with ah FAIRCHILD's son's case? Isn't that the bottom line?

W: It, it basically-

N: I mean-

W: Could well be the bottom line.

N: Yeah, what, what-

W: And that's why-

N: Could I have conceivably done?

W: Well, that's why I had to ask you-

N: To influence the case? Ah, I certainly didn't do a thing in the world. I don't know a thing about- But what could I have done?

W: Well, I mean, I don't know what you could have done. I mean it-

N: As United States District Judge.

W: If someone wanted to use their imagination, I suppose they, they could think of things, and, and I, that's why we ask you the question did BUD HOLMES ever talk to you about the case?

N: Oh, no.

W: The answer is no. Did CARROLL INGRAM ever ask you about the case. The answer is no.

N: Right.

W: And did ah WILEY FAIRCHILD ever ask you to do anything.

N: No.

W: The answer is no. I, I think it's still a healthy procedure to get to the bottom of this document business, and if you would be kind enough to do it-

N: If I have, find anything that would be any different from this, February of eighty-

W: Right-

N: I'll call you.

W: And, and my guess is, my- Judge, I, I think my guess is if your accountant is looking at documents, and he puts down on your financial disclosure statement that you purchased this in February of eighty-one. It's reflected on a document, and it could be, unbeknownst to you, that backdating is going on.

N: Why?

W: To reflect a transaction that took place before, before the bust, before the drug bust. In some people's mind-

N: But why-

W: That may be important.

N: I don't know why-

W: Well-

N: To who?

W: I don't know either-

N: For what reason-

W: And at this point, all we would be doing is speculating, without evidence to support it-

N: Yeah-

W: So it's probably not a healthy thing to do, but I mean, I, I, I think-

N: Okay-

W: At this point we should-

N: I'm just puzzled, ah, to say the least.

W: Well, we're puzzled too.

N: Yeah.

W: Okay. Well, okay, then. Then here, here's the way we'll resolve it. If, if there are documents-

N: I, I'm just wantin' to know what, what's a, what's alleged that I had to do with this case at all. I mean, what, what-

W: Well, I tell you this. We have no information from any source that in any untoward way you effected the disposition of the case. I mean, that says it all, doesn't it?

N: Yes. I hope so because it's the truth, but, you know, that, that's what puzzles me. What, what allegation could have been made? Ah, that's, that's why I asked you. This is something, you know, just completely shocking to me.

W: Sure. Well let, let, let's resolve it this way. If ah, if there are documents out there that helps us, and you can provide them, that would be great.

N: I understand. Well, I'll be happy to if I've got any.

W: If there's a resolution of this that ah I can share with you, you'll be the first to know, the way I came to you, as soon as I possibly can.

N: Okay.

W: Okay.

N: Fine. But I'd like to know myself.

WS: (Unintelligible)

W: I'm sure you're very curious about it. I'm sure this, and it's-

N: Most certainly-

W:	I can certainly understand that. And, obviously, we'll provide you a copy of this-
N:	Okay.
W:	Put it on, in the drawer and hopefully never have to refer to, but just so that you have it.
N:	Okay.
W:	Okay?
N:	All right.
W:	Thank you for your time, sir.
N:	You're welcome. Enjoy Biloxi.
WS:	Nice seeing you, judge.
N:	Okay, good seeing you, yeah.
WS:	The time is 4:42. The interview is terminated.

END OF TAPE

HOUSE MANAGERS' EXHIBIT 1 A

IS A CASSETTE TAPE RECORDING

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Hattiesburg Division

UNITED STATES OF AMERICA)
)
v.)
) Crim. No. 85-00012(L)
WALTER L. NIXON,)
)
Defendant.)

STIPULATION NO. 1

It is hereby stipulated and agreed between the parties that on July 18, 1984, a grand jury of the United States District Court for the Southern District of Mississippi was duly and properly convened, and that the Defendant, WALTER L. NIXON, JR., was duly and properly sworn when he testified before that body on July 18, 1984.

Stipulated and agreed to this 26th day of January, 1986.

Reid H Weingarten
REID H. WEINGARTEN
Attorney for the United States

M.S. Fawer
MICHAEL S. FAWER
Attorney for the Defendant

Jan Nielsen Little
JAN NIELSEN LITTLE
Attorney for the United States

HERBERT LARSON
Attorney for the Defendant

Walter L. Nixon Jr.
WALTER L. NIXON, JR.
Defendant

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Hattiesburg Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	Crim. No. 85-00012(L)
WALTER L. NIXON,	)	
	)	
Defendant.	)	

STIPULATION NO. 2

It is hereby stipulated and agreed between the parties that the original transcript of the testimony of the Defendant, WALTER L. NIXON, JR., taken on July 18, 1984, before the Grand Jury of the United States District Court for the Southern District of Mississippi, which transcript was prepared by Dale N. Milford, Official Court Reporter of that Grand Jury, and which transcript is offered as a Government Exhibit in the trial of this case, is a true and correct record of the proceedings held on that date and fairly and accurately records the questions posed and the answers given at that proceeding.

Stipulated and agreed to this 28th day of January, 86.

Reid H Weingarten
REID H. WEINGARTEN
Attorney for the United States

M. S. Fawer
MICHAEL S. FAWER
Attorney for the Defendant

Jan Nielsen Little
JAN NIELSEN LITTLE
Attorney for the United States

HERBERT LARSON
Attorney for the Defendant

Walter L Nixon Jr.
WALTER L. NIXON, JR.
Defendant

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

SPECIAL GRAND JURY IMPANELED JULY 18, 1984

TESTIMONY OF JUDGE WALTER L. NIXON, JR.

Wednesday, July 18, 1984

Hattiesburg, Mississippi

(A QUORUM PRESENT)

APPEARANCES:

ROBERT I. RICHTER
REID WEINGARTREN
U.S. Department of Justice
Public Integrity Section
Washington, D.C.
REPRESENTING THE UNITED STATES

FOREMAN: DAVID MITCHELL WARD, SR.

DEPUTY FOREMAN: DOROTHY MAE CLAYTON

REPORTED BY:

DALE N. MILFORD,
Certified Shorthand Reporter,
Registered Professional Reporter,
Court Reporter For Special Grand Jury
Order Dated February 21, 1984

MR. RICHTER:

We're in session, and the judge will be in any second.

(WITNESS ENTERS ROOM)

THE FOREMAN:

Do you solomenly swear that the testimony you're about to give in the cause pending before this grand jury will be the truth, the whole truth and nothing but the truth, so help you God.

THE WITNESS:

I do., Ladies and gentlemen (nods to grand jury).

JUDGE WALTER L. NIXON, JR.,

having been first duly sworn, was examined and testified, as follows:

EXAMINATION

BY MR. WEINGARTEN:

Q. Your name, sir? Your name?

A. Walter L. Nixon, Junior.

Q. And how are you employed?

A. I'm a United States district judge for the Southern District of Mississippi.

Q. And where do you sit, Judge?

A. I didn't understand you.

Q. Where do you sit?

A. I sit in Hattiesburg, Vicksburg, Jackson, Meridian and Biloxi, sometimes in Natchez.

Q. How long have you been a federal judge?

A. Sixteen years next week.

Q. And who appointed you?

A. I was nominated and appointed by President Lyndon Johnson in 1968 on recommendation of Senator Eastland.

Q. And you're also the chief judge of the Southern District of Mississippi?

A. I am and I have been since September of 1982.

Q. And where are your central headquarters? Where do you generally sit? Where is your--

A. Biloxi. I was born and raised in Biloxi and we live-- my wife and children and I live in Ocean Springs which is just across the bridge from Biloxi, I'd say, approximately four miles.

Q. Judge Nixon, my name is Reid Weingarten. Seated to my left is Robert Richter. We're both attorneys for the United States Department of Justice

A. I know you and I have met before. I've never met the other gentleman.

Q. As I'm sure you're aware, the ladies and gentlemen in the courtroom at this moment are members of the federal grand jury in the Southern District of Mississippi. You have graciously volunteered to appear this afternoon and give testimony in this investigation. As I understand, you're presently on vacation?

A. I think so.

Q. Hopefully--

A. My family is, anyway.

Q. Hopefully, we'll-- well, certainly we'll be finished this afternoon and you can get on your way. Appreciate your coming.

A. I appreciate that.

Q. Judge Nixon, I am absolutely convinced that you understand completely a witness' constitutional rights, but by regulation I'm required to advise you that you have the right to an attorney, your attorney can't be in the grand jury with you but that at anytime during the proceedings if you wish to consult with an attorney, you're free to do so. Anything a witness says in the grand jury can be used against that witness in subsequent proceedings. And of course you understand that any-- that you have the right not to answer any question the answer to which might tend to incriminate you.

You understand all those rights?

A. I do.

Q. Thank you, sir.

A. You're welcome.

Q. Judge, do you know a man named Wiley Fairchild?

A. Yes, I do.

Q. And how do you know him, sir?

A. I knew him by reputation. I don't think I ever met him, possibly had casually, prior to, I'd say, the early part of 1980. And about that time, I'd say the very early part of '80 or possibly even as late as late '79, to the best of my recollection-- it's been years ago, of course-- I met him formally.

Q. What were the circumstances of the meeting?

A. Some good while before that, I had talked to my friend, Carroll Ingram, who is an attorney and a very reputable attorney in Hattiesburg, Mississippi, and in the course of conversation-- Carroll has been very successful in business also. And I asked Carroll if the occasion ever arose where he was going to invest in anything, and I think I mentioned oil and gas and real estate or any other comparable transaction, or if he knew of one that he was not going to invest in that looked promising, that I would appreciate his letting me know because I would like the opportunity to invest. Because I've got four daughters at home and at that time they ranged in ages from three to, I think, 14 years, and I would like-- wanted to try to supplement my income if possible by making investments to try to increase my income because I knew I had to put them through college when and if they wanted to go.

Q. All right.

A. And sometime later-- that was I think in '79, 1979, best of my recollection. And I tried to reconstruct a lot of this since you and I talked in April of this year. At that time you came into my office and talked to me and I gave you an appointment.

I had no information in advance about what you wanted to talk about and I tried, to the best of my ability, to answer your questions concerning what had transpired years before. And I have tried very hard to reconstruct, since that time, what has occurred with reference to the transactions you asked me about, and I'm sure you'll ask me about today, and I'm here to answer those to the best of my recollection.

Q. Okay. Did Carroll Ingram get back to you?

A. Carroll got back to me sometime later. I think it was probably in the latter part of 1979 or sometime the very first part of 1980, to the best of my recollection, and said that he had a client and very good friend, Wiley Fairchild, who had investments and had been very successful in oil and gas, investments that is.

Q. Had you heard of Wiley Fairchild at that time?

A. I'd heard of him, yes. I had heard-- I thought he was in the construction business, road and bridge building, which was the only thing I knew about him at the time, and I had heard nothing of course derogatory about him. I heard he was a very successful and wealthy businessman.

Q. Isn't it--

A. In Hattiesburg.

Q. Here's an important question to ask you. When you approached Carroll Ingram at first, did you mention Wiley Fairchild or did he come back and mention Wiley Fairchild?

A. He came back.

Q. Are you certain of that?

A. Yes, I'm positive. I knew nothing of Wiley Fairchild's connection with Carroll Ingram, to the best my recollection, at that time.

Q. Okay.

A. Except I assumed that they knew each other well because they were both in Hattiesburg.

Q. But you're certain that you didn't go to Carroll and say, "I know that you know Wiley Fairchild and I would like to invest with him"?

A. To the best of my recollection, I wouldn't have said that. I would have no reason to so therefore I--

Q. Okay.

A. -- I don't recall anything like that.

Q. What followed? What happened?

A. Carroll got in touch with me, and as I told you, he told me about Wiley Fairchild and said that he had talked to Wiley Fairchild and

Wiley Fairchild was willing to talk to me about some investments in oil and gas, that he was very successful in that field, and that Carroll would set up an appointment if I was interested.

Q. What did you do?

A. I asked to him do so.

Q. Okay. And what followed?

A. Carroll, I think, made an appointment for me to see Mr. Fairchild at his office in Hattiesburg, Fairchild's office, and I think Carroll met us there, and we talked a while. I don't know whether Carroll stayed or left, but Mr. Fairchild told me that he had known Carroll for many years. I think Carroll represented him. I think, if I recall correctly, he told me he helped put Carroll through law school. And he asked me why I was interested in investing and why I wanted supplemental income. And I told him about my four little girls at home and that that was the reason. He told me that, of course, he said, "You know it's a gamble, oil and gas is a gamble." And I told him-- and there was no assurance whatsoever of course that anything would pay off.

Q. Judge--

A. Chances are they wouldn't, but I told him I understood that. But Carroll had vouched for him and told me he was very knowledgeable and I was willing to invest and take that chance of a successful investment.

Q. With your best efforts to date that meeting, what did you come up with?

A. To the best of my recollection it was the very first part-- either the latter part of '79 or probably the very first part of 1980.

Q. Is there any document that you dug out that helps us?

A. No, there's not. That's just the best I can reconstruct it and I have no documents. I didn't make any memorandum of anything like that.

Q. Do you keep a calendar?

A. No. On whom I talk to about things?

Q. Visiting--

A. No.

Q. -- visiting Wiley Fairchild, would that be--

A. Oh, no.

Q. All told, how many times did you visit Fairchild's office in connection with this?

A. I don't recall. It was more than once, a few times, and--

Q. Was the deal struck that day?

A. To the best of my recollection, it was, because I think Carroll had told me and then Mr. Fairchild confirmed it, that if I wanted to invest in three wells that he had an interest in, that it would cost me, I think he said, somewhere around nine or ten thousand dollars to the best of my recollection.

Q. Did he say it at that first meeting in early '80 or late 1979?

A. I didn't understand you.

Q. Were the figures set in that first meeting, late '79 or early '80?

A. I think so. They were mentioned somewhere along the line during our conversations. Whether it was that meeting or later on, I can't specifically recall.

Q. Well, do you recall leaving that meeting with the deal in your pocket?

A. I guess we had a gentleman's agreement.

Q. What was the agreement? What were the terms of the agreement?

A. That--I don't know whether it was at that meeting or one a little later, as I told you, but that investment in the three wells, it would cost approximately nine to ten thousand dollars. He might have said ninety-five hundred dollars, which eventually it was, but I'm not sure about that, and that would be the investment in the three wells.

He said they were Covington County, Mississippi, Marion County, Mississippi and Mobile County, Alabama.

Q. Did you have any-- did you make any efforts to investigate whether or not these were good investments, promising wells, or what?

A. No, I didn't, and I'll tell you why I didn't. Because I knew Carroll Ingram to be a person of the highest integrity. I had a lot of faith in his judgment and he vouched very highly for Mr. Fairchild. And everything I knew about Mr. Fairchild at the time was what I had heard. I had heard nothing unfavorable. I heard he was a very successful businessman, which was quite apparent, so it was an agreement of trust.

I have always dealt with people in that respect, people that I knew I-- otherwise I won't deal with anyone I didn't think I could trust because I expect to be trusted and I expect to trust other people. So it was on Carroll Ingram's recommendation and assurance, plus Mr. Fairchild's success, that I proceeded. Successful, that is his successful record.

Q. Okay. Judge, let me show you what has been previously marked Grand Jury Exhibit 2. I believe there are three royalty deeds. Just run through them, if you would, and see if they reflect-- if they're copies of the three wells that you have discussed.

A. I'll compare them with the copies that I brought. (Witness looking at documents) They appear to be.

Q. Do you have copies of those royalty deeds as well, sir?

A. Yes.

Q. What dates are-- what are the dates of those royalty deeds on the Grand Jury exhibits?

A. The dates on them are February the 25th, 1980.

Q. Are the dates on the copies that you have similar?

A. That's correct.

Q. And what does February 25th, 1980 represent?

A. As I have been able to reconstruct it, it apparently represents the time-- about the time that Mr. Fairchild and I reached the gentleman's agreement with respect to the conveyance and purchase of these royalty interests.

Q. Well, was that the date you went to his office and shook hands?

A. I don't know whether it was that particular day or shortly thereafter. As I said, I went a few times. But, to the best of my recollection, it was, but I'm not sure.

Q. Well, Judge, what would the other possibilities be other than the time that you visited with him and shook hands with him and agreed to--

A. I didn't understand. Excuse me?

Q. Well, what other possibilities would there be other than the time you actually visited him and consumated the deal?

A. What do you mean "other possibilties"?

Q. Well, I mean, can we say with some certainty that that's the time you met with Mr. Fairchild and cut the deal?

A. I-- it's been years ago, Mr. Weingarten, and I don't want to say anything positively that's not true. I can just try to reconstruct and give you the best of my recollection. My memory is not that good to reach back four years ago and come up with the exact time or the exact instance.

Q. All right. If-- if-- if we're trying to ascertain what February 25th, 1980 represents, what possibility, other than a meeting, would there be?

A. Well, as I say, the best I can reconstruct it is that's the time we reached the agreement, the oral agreement, with respect to these matters.

Q. When did those royalty deeds come into your possession?

A. The best I can recall, they came into my possession in the first part of 1981, these actual instruments.

Q. What would have caused the delay?

A. I didn't understand you.

Q. What would have caused the delay?

A. Well, the delay in what?

Q. Well, what happened after you cut the deal in February 1980?

A. Well, this is the first time any instruments were delivered to me confirming that deal, any written instruments.

Q. I suppose by the deal you obligated yourself to pay money to Wiley Fairchild?

A. Well, I-- I agreed to it. Of course, under Mississippi law, until something is put in writing with respect to the conveyance of land, until it's in writing, it's not legally binding on any party. But I considered it a gentleman's agreement back in the early part of 1980, but there was no formalization of the agreement or legalization or finality until the written instruments were actually delivered to me.

Q. And when would that have been?

A. The first part of 1981, sometime in 1981.

Q. How are you able to tell that? How do you know that?

A. I know it for several reasons. First of all, I know when I made the payments that I was supposed to make. And I have the canceled checks here--

Q. When?

A. -- to show and-- and-- let me finish, please. Is it all right?

Q. Sure.

A. I don't want to interrupt you or be

rude to you.

Q. Sure.

A. And also these deeds were set for recordation in the counties in which the land was located, to be put on public records in the Chancery Clerk's Office of those counties, pursuant to my request, by Carroll Ingram. And they were sent in April of 1981 for recordation and were recorded of record in those counties. And I do know that I had asked Carroll Ingram to do that for me some few months before that time to the best of my recolleciton.

Q. Well, were they all--

A. So I think it was the first part of 1981 but I can't say what specific date.

Q. Well, then, is it your testimony that you cut the deal in early '80 and it never became effective until early '81?

A. Well, as far as I was concerned, we had a gentleman's agrement. But under Missisisppi law, until it's put in writing, a land conveyance in Mississippi, it's not binding on either party. It's not legally binding in any way and no one can enforce it. An oral promise to sell an interest in land or interst in overriding royalty interest in property needs to be in writing before it's effective under what is called the Statute of Frauds of Mississippi.

Q. What happened in the year between the gentleman's agreement and the time it became effective?

A. I was waiting to hear something. And I had called Carroll Ingram, to the best of my recollection, a couple of times about it to ask when I was going to receive the instruments from Mr. Fairchild and I was always told that he thought they would be forthcoming. And I think I even mentioned to Mr. Fairchild, once, at least, and I think-- I'm not sure about that, but I know I mentioned it to Carroll. And Carroll said that Mr. Fairchild was the kind of person you couldn't push and he'd do it in his own sweet time. So, consequently, since he was the one that was trying to put me into the deal, I wasn't going tc try to push him

Q. Why did the dates reflect February '80 if it was not effective until a year later?

A. Well, you'll have to ask whoever prepared the instrument that question, because I didn't prepare those instruments. They were delivered to me already dated and already filled out and I signed the notes. The notes were dated the same date. Apparently, the best of my recollection, I mean the best guess I have is that they were done that time because that was the time that the gentleman's agreement had been entered into.

Q. But you--

A. That's not unusual for business transactions.

Q. But by that-- by that note you obligated yourself to pay interest on a deal that didn't exist for a year?

A. That's correct. And I certanly did that and I agreed to pay the ninety-five hundred dollars and I was certainly not going to quibble over interest for a year's time because I felt it was a gentleman's agreement when we entered into to it. And, actually, I thought I had paid interest on that until I just reconstructed all this after-- recently, after you and I had talked, and found out that anytime-- that when we called up, I apparently was not charged interest back to 1980. I apparently was just charged back to the date of the actual delivery of the intstruments in

19-- whenever they were actually delivered to me in 1981. I thought I had paid it from 1980.

Q. What date was the interest computed from?

A. I don't know exactly. Here's the way we would do it. When the time-- when I wanted to pay a note, pay on the notes, that is, I would have my secretary, or maybe one time my CPA, who is now deceased, Charles Logan, call Fairchild Construction. And when I wanted to pay a certain amount of money, I'd find out what the interest was to that date and pay the difference in principal. If I wanted to pay, say, fifteen hundred dollars, I'd find out what-- ask them what the interest was, to compute it for us to the date of that payment, and I would pay that, plus the principal, in that total amount of fifteen hundred dollars.

Q. Do your records reflect that you were charged interest only from February 25th, 1981?

A. To the best of my recollection. I didn't get down and compute it but I believe that that's correct. I can't be positive about it but I believe somewhere they-- I was charged interest from somewhere in 1981. But, all I know is we would call Fairchild Construction to find out the amount of interest due at that time, whenever I made a payment, and I think I made-- I think I paid each of these notes and I paid them by canceled checks which I have the originals of--

Q. Judge, did you bring those documents to the grand jury?

A. -- and-- and three different times, three different payments: two in 1982 and the final one's in 1983.

Q. And just so we're clear, can I see what you brought?

A. Yes, you may.

Q. Thank you.

A. You're welcome.

Q. Have you computed these figures to determine that it was February 25, 1981, that was the starting date?

A. No, I didn't. I didn't myself.

Q. Was that the result of somebody else's work?

A. Yes.

Q. So, Judge, it seems clear that the notes were-- well, not the notes-- notes plus the royalty deeds were in fact back dated a year?

A. I don't know that they were back dated a year. They were dated by whoever prepared them apparently to reflect the time that we had the gentleman's agreement with respect to the matter, the oral agreement.

Now, I didn't date them. I didn't have anything to do with putting the date on them. They were brought to me prepared and dated and I signed them, and I explained to you why.

Q. So February 25, 1980 represents a year before the documents were actually delivered to you?

A. Approximately, yes.

Q. Well, if you--

A. I assume they were delivered in February of '81. They were delivered sometime in the first part of '81, I don't know exactly what time.

Q. I'm just figuring from the time they computed intereest, so it must be roughly that time?

A. I don't-- somewhere in the first part of 1981.

Q. Is it possible that you did not discuss this matter with Wiley Fairchild until February '81?

A. To the best of my recollection, that's not what happened. I have--

Q. I mean, is it possible? Understanding it's a long time ago, understanding you have a lot of transactions, is it possible that you met with Fairchild in February of '81, reached this agreement, and someone other than you back dated these notes to February '80?

A. Best of-- I have answered your question to the best of my recoll-- I have told you what I can best recollect four years later, over four years later. That's all I can do.

Q. And that would be that the initial conversations and initial deal was cut in February '80?

A. Sometime around that time. I can't say it was that exact date because I didn't make a notation of it. I assume it was around that time when I-- when the-- because of the dates that's on the instruments that were delivered to me by Fairchild as I understand it. I-- I don't know would who prepared the instruments but I would assume that Mr. Fairchild's office did and I think they were delivered to Carroll Ingram, who prepared the notes, as best I can understand it.

to correspond with the-- with the instruments. And Carroll Ingram delivered them to me, I think at my office in the Federal Building in Biloxi, in the first part of '81. What date, I don't recall.

Q. Is it possible, and I don't want to be repetitive but it's an important point. Is it possible that you only reached the agreement with Wiley Fairchild in February of '81?

A. I have already answered your question and gave you my best recollection based on what I can reconstruct from over four years later.

Q. Well, can you be mistaken on your recollection?

A. Well, I guess anybody can be mistaken about anything when you're trying to reconstruct and recall to the best your recollection.

Q. Okay, as-- from the best of your recollection, what caused the delay, the year delay, in your receiving the papers?

A. I don't know.

Q. Have you discussed this with either Ingram or Fairchild?

A. No. I was-- I was happy to get the instruments. The way the transactions turned out, two of the wells turned out good and one of them turned out not good at all.

Q. Well, since this matter arose, since we chatted in your chambers, have you discussed what caused the delay with either of these two men?

A. I-- no, I-- I've never discussed anything with Mr. Fairchild since that time. I called Carroll Ingram, after we had our discussion, as I indicated to you and Mr. Whitespan (phonetic) that I was going to do, and did, and called others to find out what this was all about and talked to them about it. And I don't think Carroll Ingram-- I didn't ask him, there was no reason to ask him at that time, because, as I told you, when I had inquired earlier of him why the instruments hadn't been forthcoming, he told me what I told you he did. That Mr. Fairchild was the kind of person that couldn't be pushed, he would do it in his own sweet time and there was nothing else he could do.

Q. Do you know whose decision it was to put February 25th, 1980 on those documents?

A. No. No, I don't. I do know whose it wasn't: it wasn't mine. I didn't do it and didn't have anything to do with it.

Q. Did you protest that date in any way?

A. No, I didn't. I didn't for the reason I told you.

Q. And Ingram-- neither Ingram or Fairchild ever made an explanation to you later as to either what caused the delay or why it was back dated?

A. Didn't ask for any-- I didn't have to, Ingram had already told me what I told you two or three times.

Q. When you--

A. And I do know this. Now, let's get-- I do know that I paid for these-- paid these notes, and I paid them by these original checks that I have, and made three payments. In March of 1962-- '82, rather, made the first payment, principal and interest, 10% interest as provided by-- in the note. I made the second payment in September of 1982, and that paid off one of them. And the other two were finally paid in March of 1983. One of them was paid a couple months early, three or four months, one of them, and the other two were finally paid about a month late. And here's--

Q. What triggered-- what prompted--

A. --here's the checks if you want to see them (indicating). And here's the recapitulation on what was paid, interest and principal (indicating). Here are the original checks sent to me-- sent by me, signed by me, endorsed with Deposit, W. R. Fairchild Construction Company.

And I have the notes marked Paid in Full dated, two of them, March 7, 1983, and one September 16, 1982, all here, by, it says, W. R. Fairchild Construction Company by R. L. Jarvis, Jr., paid in full, all three of them.

Q. Do you want--

A. I've given you copies of these before, I think, haven't I?

Q. No, not the checks. Do you want those to be part of the grand jury record? You want us to make copies? What do want us do with the copies?

A. All right, fine.

Q. What's your preference?

A. You may have them. I would like the originals back if I may, any originals of anything that I give, for my files, but you may make copies and substitute them if it's all right.

Q. Whatever you want to give the grand jury as exhibits, we'll be happy to--

A. Here are the checks (indiating) and

here's a recapitulation on what I paid on each of the three wells, the canceled checks. Here (indicating) are the three notes marked Paid, W. R.-- Paid in Full, W. R. Fairchild Construction, R. L. Jarvis, Junior.

Q. What prompted payments by you on the different occasions? Do you recall?

A. Yes. When I had a little money come in and I wanted to pay on them and save as much interest as I could as anyone tries to do.

Q. All right, then--

A. And, also, of course, let me say this to you. That, as I recall, I started getting some royalty interests, in 1982, from these wells, which gave me a little money that I could pay. I think it was in the first part of '82, I think around March of '82. And I had a little money that I could make payments on these notes with and I paid as we went along to save interest and also I wanted to pay as I could while I had the money in the bank.

Q. So is it fair to say when royalty payments started coming in you began paying your note back to Wiley Fairchild?

A. I began pay-- that's correct. I had

until, as you can see in the notes, 1983, according to the notes, to make the payments. There were no-- I didn't have to make periodic payments. I had until 1983, I think it was February of 1983-- it's reflected in the notes there-- I mean of '83. But, as I got some money from these royalty interests, I did make periodic payments, two of them, before I paid them in full.

Q. The terms of the note, when were they arrived at? Would it be back in February '80 or would it have been February '81?

A. Back in 1980, I had mentioned to Mr. Fairchild that I was going to borrow the money to make payments, to the best of my recollection, and I think he said something about he would carry at 10 percent interest and give me until-- time-- give me a reasonable time to pay them. And that was in-- the notes reflect the time that he gave me later.

Q. So it's your testimony that that was-- that agreement was reached originally?

A. Sometime back there to the best of my recollection. I don't know that it was the specific time at that time but the general agreement. But whether we agreed on a date certain for the payment at that time or whether that was in the notes when I received them, I don't recall. But, nevertheless, there's the-- there are the notes and they tell when the payments were due, and they were paid.

Q. You are familiar with financial disclosure statements that all federal judges in the United States, all congressmen and many, many executive officials need to fill out?

A. Certainly.

Q. Okay.

Q. And it's a law called Ethics in Government Act that prompted this required disclosure, and it started back, I think, in '78; is that a fair statement?

A. I think so, to the best of my recollection.

Q. Do you recall, without showing the documents, when the Fairchild oil leases were first reported by you?

A. Yes. They were reported in my financial disclosure statement for the year 1981, that is the one that was filed in May of 1982, reflecting the transactions for the year 1981. They are due every May, I think it is, of each year, for the previous calendar year. In other words, 1981 was due in May of 1982. All 1980 transactions were reported-- had to be reported in financial-- in May of 1981. So you'd have until May of the following-- just like you have for filing your federal income tax, April of the following year for the prior calendar year.

Q. So it's perfectly clear, when you filled out your statement in May '81, for the year 1980, you did not include the Fairchild leases but you included them when you filled out your document in May '82--

A. That's--.

Q. -- for the year 1981?

A. That is absolutely correct. And the reason I didn't is because there was no legally binding agreement entered into prior to the first part of '81 between Mr. Fairchild and me. It was not binding on any party because it was an oral gentleman's agreement. The legally binding agreement, as I want to repeat, was entered into in 1981. And that's when I reported, in May of 1982, that agreement for 1981. I disclosed that it was done in 1981, which is the truth. That's when the agreement was formalized and legally binding. And if I'd wanted to report it in 1980, of course, I could have reported it in May of 1981, if it would have been an '80 transaction, because obviously the deeds had even been filed for record in April of 1981, which was a month before the financial disclosure statement was due in May 1981 for the year 1980--

Q. Judge--

A. --but there was no transaction legally binding in 1980 so I couldn't report it for that year. I had to report it for the year of 1981 on my finaicial disclosure statement which was filed in 19--May of 1982, so I reported the transaction as a 1981 transaction, which it was.

Q. Judge, in all the documents that you brought, is there any paper that reflects when in 1981 the deal became effective?

A. You mean the financial disclosure statement?

Q. No. In all of the doucments you reviewed and in all the documents you brought to the court, is there anywhere a doucment that reflects when in '81 the deal actually became legally effective?

A. I have none, Mr. Weingarten.

Q. I think you told me before that it was your accountant that actually filled out the financial disclosure statement or assisted you or went through your files?

A. That's correct.

Q. Do you have any idea what document he would have relied upon to figure out that it was a 1981 transaction as opposed to a 1980 transaction?

A. Well, the only thing that I can think is this. We did not report any because there was no written transaction in 1980, and of course no transaction was reported for the year 1980 in the disclosure statement filed in May of 1981.

We didn't contend there was, never claimed there was, and don't claim there was now, a written agreement, a legally binding agreement. So we didn't disclose it May of 1981 for the year 1980 because there was none. So my only supposition is that when he saw the-- in the financial file that we furnished him to make all these reports, when he saw these notes and copies of deeds in the file dated February of 1980, which was the date on them, he apparently thought it should have been '81 and reported that as the date in our disclosure statement of May 1981. I wish he were here so I could ask him, but he died of a-- suddenly of a heart attack-- he was in his forties and he died, as I recall, in the fall of 1982. He dropped dead.

Q. Judge, in the negotiations with Wiley Fairchild, do you ever recall asking or demanding that more acreage be applied by him to you?

A. No.

Q. Was it sort of a take-it-or-leave-it deal, him presenting you with an option and you just saying yes, or was there actual negotiations going on?

A. No.

Q. Which one?

A. There was no negotiation. He told me what he would do and he told me, he said, "Judge, Carroll Ingram vouched for you." He said, "I think a lot of Carroll," and said, "I've read about you and read about your career and your record." And he said, "I've asked you why you want to do this." He said, "I've got a great deal of income and I'm a relatively wealthy man." He said, "I think it's a real fine thing for someone to want to do this for his children's benefit, to try to increase his income," said, "I like that." And he said, "I'm going to help you if I can." He said, "It's a gamble, as anything is in the oil and gas business." He said, "I think they're good wells but I can't guarantee them."

I said, "I understand that right up front and I'm willing to take the chance based on Carrol's vouching for you and your reputation as a real good businessman and apparently real good in the oil and gas business," been very successful, Carroll had told me, and he verified that. As I said, before that, I didn't even know he was in that. I knew he was in road construction.

Q. , Judge, the-- it seems perfectly clear from your testimony and from the documents that the deal became effective legally in early '81.

A. The best of my recollection, that's correct.

Q. And everything--

A. Because the instruments were filed for record in April of 1981, as I disclosed on my financial disclosure statement that was filed in 1980. First, I didn't disclose, on the '81 statement, any financial-- any deal made in 1980, so it had to be in 1981, which I disclosed on my

1982. That's the report filed in May of 1982.

Q. And that reflects, and every document, I think, in your portfolio reflects, that the deal became effective in early '81, everything relating to the deal took place after early '81. An important question, and can you help the grand jury in anyway, what--

A. I didn't understand your question.

Q. I didn't get to it.

A. The preface. I didn't follow it.

Q. Maybe I can break it down.

A. By the way, would you please return these other documents that I loaned you so I may refer to them.

Q. Oh, sure. (Handing documents to witness.)

A. Thank you. All right.

Q. The point is this, Judge. It appears from your testimony, from the documents, that the transfer became effective in early '81, legally effective, practically effective. I mean, is that a fair statement?

A. I think I have stated that to the best of my recollection, Mr. Weingarten. This is several years later. I'm trying-- I tried to reconstruct this, I gave it all the best thought I could after you and I discussed this matter in April of this year, and that was the first time I had been asked about it, ever. And I have done my best to reconstruct it and bring in all those documents voluntarily, and I'm giving it to you and to the grand jury, and that's the best of my recollection.

Q. Can you help the grand jury in any way in testifying as to what Wiley Fairchild and/or Carroll Ingram may have had in mind when they back dated the deeds a year?

A. Well, you say "when they back dated." They're apparently dated at the time that Mr. Fairchild and I had the gentleman's agreement, or about that time.

Q. You paid interest--

A. I don't know that they were back dated, but that is something that you would have to ask them, Mr. Weingarten. I had nothing to do with the dating of the instruments and I can't read their minds.

Q. Well, understanding that--

A. It would be pure supposition and guesswork, what they had in mind.

Q. Well, could it be a coincidence that it was exactly a year before that that you had your conversation with Wiley Fairchild when the deal was cut? I mean, if interest is computed back to February 25th, 1981, that appears to be the time when the deal became effective.

A. Well, I don't know that it was February 25th, 1981. I said the first part of 1981. I don't know what day we actually-- it was actually signed. That was the date on the instrument, apparently, the February 25th, 1980, not '81. All I said was that sometime in the first part of '81, prior to April, when the instruments were actually sent for recordation, we know they'd already been executed then because I had them-- I had Carroll Ingram record them for me in the public records of these counties in April of 1981. So I knew it was a short-- a while before that that they were sent for recordation-- I mean that I had given them to Carroll Ingram to send for recordation. I don't know how long he held them.

Q. Maybe I misunderstood your previous testimony. I thought you had said that the Fairchild establishment or concern computed interest back to February 25, 1981.

A. I didn't say that. I said when we asked them to compute the interest, they computed it and gave us the figure. To the best of my recollection they computed it from sometime in 1981. I don't know exactly what date. I can't tell you it was February the 25th because obviously there was never a February 25, 1981 instrument. It was sometime in the first part of 1981 is all I can tell you. And the instruments had this other date and it was apparently around the time that Mr. Fairchild and I had the handshake and gentleman's agreement about it. They didn't become effective until sometime in the first part of 1981 to the best of my recollection.

Q. Not to belabor this particular point, but who provided you with the information that interest was computed back to early '81?

A. Mr. Bill Goodman, who has been assisting me in this matter. I think he might have had someone compute it.

Q. You had mentioned in your testimony that one of the wells was, I think, not so good and two wells were good?

A. Yes.

Q. Do you have any document there that

reflects what the output has been for those wells?

A. You mean in dollars?

Q. Yes.

A. Yes, I do.

Q. Would you just report to the grand jury what has been the net thus far on those wells?

A. I have computed it as of April 19-- 1984, this year. Two in May and one in April.

The one in Mobile County, the gross payment on it was over a peiod of months, was approximately twenty-five thousand dollars.

Q. When did the payments start?

A. I think they started in about March of '82, or somewhere in that neighborhood. On that one, maybe later. I think maybe September or October of 1982. And on the other, the Rogers well in Marion County, approximately twenty thousand dollars, twenty-one thousand dollars, May of '84. Of course, that's not counting what I had invested in them. You'd have to subtract that.

And, of course, what I did invest in them was money that I invested after taxes, after tax money, and these incomes would be subject to taxes of course. This is just gross.

In the Covington County tranascaction,

I have gotten twelve hundred and sixty dollars back as of May-- April of 1983. Less than the investment in it. And I don't know whether it will ever pay back or not.

Q. Is this oil or gas?

A. Gas.

Q. These are all gas wells?

A. Yes.

Q. When you purchase an interest, is it in perpetuity or do you get it for a period of time? Do you know?

A. I-- I guess it's as long as they produce and there's a market for it, I would guess. Nobody knows how long any of these things produce. I certainly don't.

Q. When you invested--

A. And I do know that they initially produced much better than they are now.

Q. They are on the decline?

A. Yes. They were-- they declined about half in recent months, recent-- quite a few months, half of net.

Q. Are you knowlegeable in the gas business or the oil business?

A. No.

Q. Were you a complete novice?

A. When I was in-- when I was practicing law some, I guess some 18 years ago, I invested in a few little wells. And one of them I think was supposed to be a producer, but what I paid out every month in expenses, I think, just about exceeded the income so it was really costing me to own an interest in that producing well.

Q. So you base--

A. And I did invest in some since that, this transaction, of course.

Q. At the time of the initial investment with Fairchild you were relying on his reputation as you testified? And Carroll?

A. And Carroll Ingram's vouching for him, yes.

Q. Do you have any other records that you brought that are relevant to the grand jury's inquiry?

A. I don't know what records you're talking about.

Q. Well, did you bring anything else you want to make a part of the record?

A. I brought everything that you asked us to bring.

Q. Could we go through those documents?

A. Yes. I brought the checks, I brought the promissory notes, and I brought the deeds. And I brought the recapitulation on what our income was. That's-- you didn't ask for that latter. I just brought it and tried to figure it out myself to give you whatever information I had.

Q. Is it--

A. I brought everything with me that you asked for on it.

Q. Okay. Is it your wish that we take these documents, copy them, and give you the originals back?

A. I think I've given them to you. Yes, these (indicting). Yes, yes.

Q. Those documents in that (indicating) file?

A. Oh, the documents you asked me to bring?

Q. Yes. Shall I relieve you of them now or--

A. You may. And of course you have the prom-- you have these (indicating), but I will give them to you, with Mr. Ingram's letter of April 3, 1981, to the various chancery clerks asking them to record these instruments in their public records pursuant to my request.

Q. Were they all actually filed in April of '81?

A. I have no way of telling you that. I assume they were because those cover letters to the various clerks--

Q. Make such request?

A. --makes such a request and I would assume they have been. And it was not necessary to record them for them to be legally binding, but I put them on public record because I wanted to because I believe in putting in public record what-- what transactions I enter into.

Q. What legal effect would making them of record-- what legal effect would there be?

A. Notice to anyone.

Q. So you would have priority if anybody made a claim?

A. They were legally binding once they were executed and delivered. They need not be recorded to be legally binding once they were delivered in writing.

Q. All right.

A. But I did that because I wanted to have them recorded of public record.

Q. Judge, as I discussed with you when we last met, of interest in this investigation is the drug case involving Wiley Fairchild's son. And I would like to ask you a few questions about that.

A. Be very happy to answer what I can.

Q. The grand jury has heard evidence that in August 1980 a plane landed, loaded with marijuana, at the Hattiesburg airport and that subsequent investigation caused law enforcement authorities to conclude that Drew Fairchild, the manager of that airport, played a part in that smuggling effort.

A. You told me that in our first interview in April of 1980-- 1984, this year.

Q. Right. When was the first time you became aware of that case?

A. I told you, and I'm repeating it, to the best of my recollection, I believe-- I don't know whether I read about it in the newspaper or heard about it or some-- or heard it on TV. There was some criticism of the state's handling of that case in state court, by the news media. And I don't know when that was but I would assume it was just a couple of years ago.

Q. Okay. The grand jury has heard

evidence that some of the people arrested at the scene were prosecuted federally and pled guilty and were sentenced, I believe, by Judge Cox-- not by you, by Judge Cox-- in federal district court in February of 1981. Would you have any knowledge of the progress of that case as it happened?

A. No, none whatsoever.

Q. Where does Judge Cox sit?

A. Judge Cox sits where he wants to sit. He sits in Jackson, Hattiesburg, Meridian, Biloxi and Vicksburg.

Q. And obviously--

A. I don't mean to be funny, but he's kind of like the 800 pound gorilla: he sits and does-- where he wants to and kind of does what he wants to.

Q. But it's your testimony that whatever happened in his court, vis-a-vis this case, was unbeknownst to you?

A. Absoutely. And if you have any information to the contrary, I would like you to tell me and the grand jury now because I would like to ask.

Q. Well, obviously--

A. Because there is none.

Q. If you testify, Judge, that you didn't know, we'll accept your testimony.

A. Thank you. So we have that understanding.

Q. Eventually the case was indicted by the state. The grand jury's heard evidence to that effect. You testified that somehow, some way, there was some criticism of the way the state handled the case?

A. That's my best recollection.

Q. And your source of that information?

A. My what?

Q. Your source of that information?

A. As I've told you awhile ago, I either read something about it in the newspaper or heard something about it on TV or someone told me they had read something about or heard something about it, I don't recall.

Q. The grand jury has heard evidence that the prosecutor, the state prosecutor, who eventually handled the case was an individual named Bud Holmes. Is he a friend of yours?

A. Very good friend of mine, long time friend, yes.

Q. Did he ever discuss the Drew Fairchild case with you?

A. No, not to the best of my recollection. I think I would recall if he had.

Q. Was the criticism directed--

A. And as you now, Mr. Weingarten, the federal government has nothing to do with a state court prosecution. Federal courts can't even interfer with an ongoing state criminal case under the law, with one very narrow exception of bad faith as during the civil rights cases, problems, in Mississippi. The federal courts are prohibited, even if we were asked by properly filed proceeding, from interferring in any way or having any input or say so with reference to any state court--ongoing state court criminal action.

Do you agree with me or not? You're a good lawyer, I'm sure.

Q. Judge, I'm sure you can appreciate in a grand jury it's best to proceed with the prosecutor asking the questions.

A. Well, I understand. I'm not trying to be smart with you and I'm not trying to turn around and ask the questions, but I think the grand jury has a right to know what the law is as well as the facts.

Q. You understand that the United States has a--

A. I'm not arguing with you.

Q. -- responsibility to provide the grand jury with all relevant law and facts.

A. All right.

Q. We take that responsibility very seriously.

A. I know, I don't question that. That's why I asked you, in all sincerity, if you know that under the Younger versus Harris doctrine of the United States Supreme Court that that is the law. If you don't want to answer it, I'm sorry. I'm sorry I asked it, go ahead.

Q. Judge, was the criticism that you read about or heard about directed at Bud Holmes' handling of the Drew Fairchild case?

A. To the best of my recollection, it was.

Q. And what was the nature of the criticism?

A. I don't recall precisely but I think it related to the delay or that-- or somethng to that effect. I don't-- I don't recall. It didn't give much detail about it--

Q. All right.

A. -- if I remember correctly. And I think I either read-- I think I read it in a newspaper. I think that's where I saw it. And whether it was Hattiesburg or Jackson Clarion Ledger, I don't recall.

Q. So we're just perfectly clear, that information did not come to you from Bud Holmes?

A. That's correct.

Q. Did Wiley Fairchild ever discuss the case with you?

A. No, not to the best of my recollection. I think I would recall that if he had, believe me, but I don't recall that he ever did.

Q. And accepting your answer as you state it, I need to ask the follow-up questions.

A. Very well.

Q. Did Wiley Fairchild ever ask you to do anything vis-a-vis his son's case?

A. Absolutely not.

Q. Did anyone on behalf of Wiley Fairchild ever ask you to do anything on behalf of his son's case?

A. Emphatically not.

Q. Did the U. S. Attorney in Jackson, Mississippi, or any of his subordinates, ever ask

you or talk to you about the Wiley Firchild case--
excuse me, the Drew Fairchild case?

A. No, not-- not before all this came up,
when I asked them what this was all about. And, Mr. Weingarten, let me say this to you, and I think the grand jury should know this.

First of all, a federal judge has no authority, no power, no say-so, in who is or who is not prosecuted in federal court. That is the Department of Justice decision, your people you work for, either directly from Washington or through the United States Attorney's Office. They have the sole authority to decide whether to proceed against someone criminally in federal court or not. A federal judge has no say-so at all about that. Certainly he can't institute the action. That's up to the Department of Justice. And certainly he can't interfer with it. That's been-- that's been determined when Judge Cox and former U.S. Attorney Robert Hauberg had a confrontation some many years ago, I think either right before or right after I went on the bench. And that was decided by the Fifth Circuit Court of Appeals, but, and of course, it was good law, good clear law.

But the Department of Justice has the sole discretion and responsibility and authority whether to indict somebody or charge them and proceed against them in federal court. The federal judge has no such authority, and I think we both know that. I'm not going to embarrass you by asking you if you agree with me because I don't want to look like I'm questioning you. But the grand jury should know that. Many people don't know that.

Q. Let me-- maybe this will help. I assure you, Judge, at the end of the questioning, you'll have an opportunity to say whatever you want to say about it.

A. I understand, I'm trying to explain my answer. And if you disagree with me or disagree with what I'm stating, that about the law and the power and the authority of a federal judge and of the federal prosecutor, please say so and disagree with me because I don't want to give the grand jury any misleading or false information.

Q. Actually, I think it would be fruitful if we-- if I confine my questions to asking factual questions.

A. All right, go ahead.

Q. I'm not even sure if the last question was answered. I'll ask it again.

A. All right.

Q. Did anyone from the U. S. Attorney's Office discuss the Drew Fairchild case with you prior to the August '81 indictment?

A. Absolutely not.

Q. Were you alone with Wiley Fairchid in his office?

A. Yes.

Q. On how many occasions?

A. I don't know. More than once, discussing the gas interests.

Q. Carroll Ingram would not have been present on those occasions?

A. No. Sometimes Carroll was present, at least once, maybe twice, but I have talked to Mr. Fairchild separately, yes.

Q. So to place the events in context, would any of those meetings with Mr. Fairchild have taken place in 1981?

A. I don't recall. I wish I could tell you, honestly, but--

Q. Well when did--

A. -- if there were any in 1981 or not.

That's over three years ago. I had several meetings as I told you.

Q. When would the most recent one have been?

A. In his office? I don't know, but it's been many months ago. And that's the only time I've ever met with him. I've talked with him on the phone but that's-- a couple of times about this. And especially one time, when the production dropped in half, I wanted to know what happened and he said something about the gas supply, that the supply, that is the demands or the curtailment or something was what caused it. But that's been months ago, many months.

Q. Was that a telephone conversation or a meeting?

A. Telephone conversation.

Q. The last meeting would have been-- was there a meeting after the effective date of the transfer?

A. Not to my best recollection, but I couldn't honestly tell you that one way or the other and I wouldn't want to deceive anyone or give a false answer.

Q. Your best recollection is the meetings took place before?

A. (No reply)

Q. You don't know?

A. I know-- I know some of them did. Whether any took place after that, I don't recall. This has been over three and a half years or four years ago, Mr. Weingarten. I had no reason to make a notation of the dates of these meetings.

Q. February 1980, the deal is cut, what would have caused you to meet with Wiley Fairchild again before the effective date of the transfer?

A. I don't know of any reason. That's why I doubt that I did, but I--

Q. I don't mean to be obtruse but--

A. You're not.

Q. --how many meetings are we talking about?

A. All together?

Q. Yes.

A. I don't know, there was more than-- more than two. I don't think there was as many as five or four.

Q. Just--

A. Somewhere in that neighborhood. I'd say two to five, probably.

Q. If the first meeting--

A. That's my best guess.

Q. If the first meeting produced the deal, what would the other meetings have been for?

A. I met with him several times. One time he told me that he thought he was over-- maybe overcharging me for these and would maybe put me in another later. He mentioned something about the name of a well was-- I don't know, remember when this was-- it had something to do with the name School in the property. But he never did and there never was any mention of it.

And, as I say, I don't know of any reason I would have met with him after the transaction was finalized in the first part of 1981, but I can't say for sure. It's possible.

You're asking me about-- I-- I don't like to keep repeating it-- but three or four years ago, and I'm trying to reconstruct this to the best of my recollection and knowledge.

Q. Did he ever visit with you in your chambers in Biloxi?

A. No.

Q. The meetings would have taken place here in Hattiesburg?

A. That's correct.

Q. Typically, what would have triggered the meetings? Would you be in town on your way to--

A. Sometimes, or may-- I think the first time I just came to see him when Carroll called me. And sometimes maybe I might have been passing through going to Jackson to hold court. I don't know, I don't recall that.

Q. Just to sum up, Judge, the-- is it fair to say that the effective date of the transfer was February 1981, or around there?

A. The formalization of the agreement, that is putting it in writing and making it binding, was somewhere in the first part-- the best of my recollection-- of 1981 because the written instruments were sent by Carroll Ingram, pursuant to my request, for recordation in April 1981. You have them before you there.

Q. Okay. I just--

A. So, consequently, it was either late-- I would assume the first part of '81 or somewhere in there.

Q. And it's your testimony that a gentleman's agreement was reached a year earlier, or approximately?

A. I've already told you that.

Q. We're summing up, summing up. Is that a fair statement?

A. Yes. I don't know it's a year to the date but approximately. It was a long time before. Let me put it that way.

Q. And do you know--

A. I would assume it was the first part of '80, could have been the last part of '79, but I-- that's the best recollection I have of it at this late date in 1984.

Q. And it's your testimony that you had nothing whatever to do with the placement of the February 25th, 1980 date on the documents?

A. That's correct.

MR. WEINGARTEN:

Mr. Richter?

THE WITNESS:

May I have a little water, please?

MR. WEINGARTEN:

Sure. Why don't we take-- is there water up there?

THE WITNESS:

I don't know. I can go on, that's all

right.

MR. WENGARTEN:

We can take a break.

THE WITNESS:

That's all right. Go ahead. It will delay this.

EXAMINATION

BY MR. RICHTER:

Q. Now, Judge Nixon, based on your financial-- I guess you set the effective date of the transaction as 1981 based on your financial disclosure form and when the deeds were filed; is that correct?

A. Well, and the fact that I know that we had talked about it and agreed on the gentleman's agreement some many months before. So that's-- that's why I can best reconstruct it.

We're going over the same thing time after time. I don't mean to be obtruse, either, but I don't know how many times you want me to answer the question.

Q. Just answer the question is all we want. Basically, when these deeds say February 25th, 1980, it's your testimony that they were probably drafted in 1981 and back dated to reflect the gentleman's agreement?

A. I don't-- you said back dated. I said my best guess would be that they were dated at that time, by whoever prepared them, apparently Mr. Fairchild--

Q. In 1981--

A. -- to reflect the approximate time that we had the gentleman's agreement.

Q. Well, the dates don't say that the transaction took place in '80. It says that's when they're signed. Isn't that right? In other words, the dates on these documents aren't the date of the transaction, they're the date of the signature?

A. They speak for themselves, and yes.

Q. Well, is this (indicating) the promissory note that you signed?

A. Yes.

Q. What is the line--

A. It says witness execution the 25th day of February 1980, yes.

Q. What does that mean to you: Witness execution hereof this 25th day of February 1980?

A. Well, just what it says.

Q. It means it's signed on 1980. Right?

A. Right. But if I was trying to contend that these instruments were signed in 1980, I could have reported this on my May 1981 financial disclosure statement because these instruments were filed for record a month before it was due. I reported them-- I never attempted to report them or make anyone believe that these instruments were executed in 1980 because on my financial disclosure statement for 1982, filed in May 1982, and which is now-- I hope the grand jury has them-- I reported these transactions to be 1981 transactions. And there (indicating) they are.

Q. Well, the point of the matter is if there was an effort to-- made to show that this transaction took place in 1980, even though the papers were signed and prepared in 1981, couldn't the papers have been drafted to reflect that the agreement took place in 1980 but then the signature line be honestly filled out saying that signature this 25th day February 1981?

A. I didn't prepare the instruments and I never led anybody to believe or tried to lead anyone to believe that they were prepared other than 1980-- were executed anytime other than 1981, and that's reflected on my public financial disclosure statement now before the grand jury. At no time did I ever report to anyone or attempt to tell anyone that they were executed in 1980.

Q. Except where you signed your name and it said "executed 1980"?

A. You have my financial disclosure statement.

Q. Sir, did you sign this promissory note as it said it was signed? I mean it doesn't say the transaction's effective 1980, it says signed 1980.

A. I told you I signed that and I've told you why the-- apparently Mr. Ingram put the date on to conform with what Mr. Fairchild put on the instrument, to reflect the date on which the gentleman's agreement was reached. Now you--

Q. Did you or did you not want these documents to accurately reflect the date of the signing and the date of the transaction?

A. There was no particular significance to me at that time except Mr. Fairchild apparently chose to put the date the gentleman's agreement was reached and I was willing to pay the interest. You have my financial disclosure statement--

Q. You--

A. Wait just a minute, let me finish. In my May 1981 financial disclosure statement, filed for the year 1980, is there anything on there stating that these instruments were executed or signed in 1980? No. They are not reflected. In my financial disclosure statement, my public sworn statement that is filed and of record and notice to the public filed in May of 1982, it reflects that these instruments were executed in 1981. So why would you think that I wanted someone to believe they were done in 1980 when I disclosed on my statement filed 1982, long before any of this ever came up, that these were instruments and transactions in 1981?

Q. Well, that's the question, Judge: why would anyone want to date these to show 1980--

A. You have to ask--

Q. -- to show they were signed--

A. You have to ask the preparer. And that's my only-- my best surmise as to why they did it.

Q. Well, you, as a federal judge, when you sign something, it says witness execution hereof this 25th day of February 1980, and it's 1981, that didn't trouble you?

A. What is the significance of the date 1980 and 1981?

Q. Well, what's the significance of signing it?

A. I asked you: what's the significance?

Q. Sir, I don't answer the questions. I'm not under oath here.

The-- what is the significance of the date on the signature line?

A. I have already been over that several times with Mr. Weingarten.

Q. Well, does this date here reflect the date of the transaction or the date of the signature?

A. It reflects, apparently-- apparently reflects the time or about the time that the gentleman's agreement was entered into and this was formalized by signing the instrument.

Q. As a lawyer and a judge--

A. Mr. Fairchild apparently dated it that day and I honored it. I never tried to tell anyone it was a 1980 transaction. But what's the significance of whether it was '80 or '81?

Q. I believe you testified that between February 1980--

A. Because-- and I understand what Mr. Weingarten told me earlier because is was, he said, the significance, when I asked him that question, was that there was a drug bust in August of 1980. Well, I don't know what significance that has as far as I'm concerned because I have had nothing official or unofficial to do with the Drew Fairchild case or any of the other parties involved either in federal or state court.

Q. You finished?

A. Yes, for now.

Q. In late 1980 and early 1981, how many federal judges were hearing criminal cases in the Southern District of Mississippi?

A. Well, regular judges in active service in this district-- I say regular judges, we didn't have senior judges at the time, I don't think-- there were three.

Q. So, what is the probability, that if someone's indicted in federal court, of their case coming to you--

A. Well, that's--

Q. -- at that point in time?

A. That's all done by lot and drawing of numbers, but no federal case can come to a federal judge until it's presented and an indictment had by the Justice Department.

Q. What is the probability--

A. It can't be instituted in federal court unless the Justice Department institutes it. And until that time, there is no possibility of any criminal case going to any federal judge. And the Justice Department never instituted a criminal action against Drew Fairchild in federal court.

Q. Had Drew Fairchild been indicted in early 1981, what was the probability of the case coming to you? Had he been indicted, what would have been the probability?

A. You are asking "had he," he never was.

Q. I'm asking "had he." Had anybody been indicted in early 1981, what is the probability of the case coming before you?

A. I don't know what the probability was. I told you that the cases are drawn by lot--

Q. And how many judges could have--

A. -- blindly.

Q. How many judges can there possibly be?

A. Three.

Q. And you are one of the three?

A. Yes.

Q. And--

A. But there was never any federal charges filed by the Justice Department against Fairchild in federal court.

Q. Sir, you've stated that. That's not my question.

A. All right.

Q. Is it not true that lawyers have ways of getting at least one of the other judges disqualified from cases by retaining various law firms, that lawyers are able to increase their odds of getting a case in front of one judge or another?

A. Well, let me say this to you, sir. That may be possible in some places, but I have more faith and more trust in the lawyers practicing law in the Southern District of Mississippi than to charge them with such a devious and deceptive practice.

Q. Now, sir, once a criminal defendant is convicted in federal court, who has total discretion over the sentence that that individual would recieve?

A. (No response.)

Q. Is that a hard question?

A. No.

Q. What's the answer?

A. You mean who sentences them? We all know the judge sentences someone who's convicted if he's indicted, if his case is presented by the Justice Department, the U.S. Attorney or directly from Washington. But if it's not, no one sentences him because he's never tried, he's never charged in federal court.

Q. So if a person--

A. And Drew Fairchild was never charged in federal court. And that was up to the Justice Department to decide either directly or through the U.S. Attorney, and apparently they chose not to do so. So if you want to know why that was not done, ask your department. I don't know.

Q. Sir, if Drew Fairchild had been indicted and had his case been assigned to you, and had he been convicted, okay? Who would had total discretion over his sentence?

A. If--Mr. Richter, if an elephant had wings, he could fly, maybe. But we're-- I thought we were dealing in facts here, not if this and if that and--

Q. Sir, I want the jury to understand--

A. -- that never took place--

Q. I want the jury to understand, as you said you wanted them to, what your power was and what your power wasn't.

A. That's correct.

Q. And that's the purpose of the question.

A. Yes.

Q. Had Drew Fairchild been indicted in 19-- early '81 and the case been assigned to you, and he was convicted, who would have total power over his sentence?

A. I would have if I hadn't recused myself And I might say, Mr. Ricther, that with respect to this Covington County field--

Q. Yes, sir?

A. I was assigned a case within the last year or so that dealt with that and I recused myself, and that fell to another judge, because I had an interest in this well. If I had any interest in anything, have any possible conflict of interest, I or any other judge who's worth his salt is going to recuse himself and get out of the case.

Q. You stated that the reason you didn't push to get the deeds to get the transaction finalized between February 1980 and February 1981 was that you were told Wiley Fairchild wasn't that type of person, is that correct? That you don't push him.

A. That's what Carroll Ingram in effect told me.

Q. Is that what you--

A. Now, he might not have used those words but he intimated that he would take his own time doing what he wanted to do.

Q. Is that why you never got on the phone throughout 1980 and said, "Hey, I thought we had a deal. I wanted a deal, where's the papers?"

A. Yes. I talked to Carroll about it a few times.

Q. Did you ever in 1981 or 1982 instruct anyone on your staff to call Wiley Fairchild's office and ask why you weren't receiving royalty deeds and when are you going to receive royalties? Not deeds but royalties. Why you hadn't been receiving your royalties and what's the delay and why hadn't there been a division order?

A. Yes, I understood that the wells were producing sometime, I don't know when it was, and there was no income coming and I wondered why.

And we inquired and they said there had to be a division on it and it hadn't been forthcoming.

Q. But you never inquired about why the deal that you had struck hadn't been effectuated?

A. I have already answered that several times.

Q. You did. I believe you said you were good friends with Bud Holmes?

A. Yes, and many other lawyers in our district. Down in the state of Mississippi, people are friendly with each other. Friendship stops at the courtroom door with respect to lawyers and judges as far as I'm concerned, and as far as any good lawyer is concerned, but when I became federal judge, I didn't consider myself annointed. I considered myself appointed and I didn't give up my First Amendment right, I didn't give up my right to continue to be friends with anyone I had been friends with before, and will not. I practiced law at the same time with Bud Holmes, and many other laywers, and we've maintained our friendship throughout the years. And that's what it's been: friendship.

Q. Can you describe the nature of the friendship somewhat?

A. What do you mean?

Q. Well, there are friendships where you would each lunch together once a month, where you socialize together in various ways, where it's strictly business, strictly pleasure, the-- are you-- would you say you're-- and I guess any way you choose to characterize it in somewhat more detail than saying it's just a friendship.

A. Well, I said we've been very good friends, like I have been with many other people and many other lawyers.

Q. Would it be fair to say you're particularly close with Mr. Holmes?

A. I don't know if I'm "particularly close." We're very good friends, I'm not here to deny that. I'll never deny friendship with someone. But why? What's significant about that? What-- what's your point, Mr. Richter?

Q. Sir, again, I don't--

A. Let's be honest about it. What are you asking?

Q. -- answer the questions.

How often do you generally see Bud Holmes?

A. Oh, it varies. Not real often. You

know, sometimes-- it varies, it depends on the circumstances or when. We don't see each other once a week or most of the time maybe not even once a month unless, you know, something throws us together.

Q. I believe you stated that you reviewed the various financial documents?

A. And I might say that I was not only a friend of Bud's but his family. His mother, Mrs. Mary Lee Holmes, who just died, was a pillar in the Methodist Church, buried right across the street. She was one of the finest people I ever knew. She used to be mayor of Hattiestburg. And his father was proiminent, prosecuting attorney, his father was, and I knew his mother real well. She was a fine lady. And our families-- I've been friends of the family.

I'm not trying to deny that in any way or play that down, because I have been with so many other lawyers and so many other people, and am, and I'm proud of that fact. That I'm-- I can be a friend of many friends among the bar, practicing attorneys.

Q. I believe you testified that you had reviewed the-- some of the financial documents in terms of how much you paid and how much you received for the various wells; is that correct?

A. It was recapitulated for me by somebody.

Q. Is it fair to say, based on that review, that at no point did you pay on the note-- this is a little complicated, bear with me-- at no point did you pay more on the note-- the notes than you had already received in royalties?

A. I don't know. I haven't checked that out.

Q. Is it possible, in other words, or at least an approximation, that basically you didn't pay these notes until you got the money back on the investment, than you paid for them?

A. Well, I had a certain period of time to pay the notes according to the terms of the notes. They were paid-- one of them was paid a little in advance, two of them were paid a month late and I paid some periodically twice. On two other occasions I made payments in the meantime which I wasn't obligated to pay. But as I got some money in from the royalties, I paid on them; that's correct.

Q. So basically--

A. They were paid in full.

Q. --you were paying with the-- with the investment-- for the investment with the income from it?

A. Well, let me say this. I just didn't take the income and transfer it over. It's supplemented any income that I had, certainly-- I don't know in what amount-- but I had enough money to make payments on the notes and I paid on them a little in advance.

MR. RICHTER:

I have no further questions.

MR. WEINGARTEN:

All rigtht. Judge, do you have anything you want to add?

THE WITNESS:

Yes, I do.

I want to say this. I-- Here (indicating) are your notes too, copies of your instruments, rather.

I came here voluntarily and am very happy to cooperate with this grand jury and give them all the information that I have and that I could. And I have always thought everyone should do that, and that goes for the grand jury over which I'm supervising right now, the other federal grand jury that's sitting at this time. I have nothing at all to-- had nothing to hide or nothing to withhold and I brought everything that you have asked me to bring.

And I want to say this. That I've been told and led to believe and read in the newspaper and heard on the news media so much about this is an investigation of the Drew Fairchild criminal case. Now, I have had nothing whatsoever officially or unofficially to do with the Drew Fairchild criminal case in federal court or state court. I don't need to reconstruct anything with reference to that. I've told you that from the beginning.

I have never talked to anyone about the case, any federal judge or state judge, federal prosecutor or state prosecutor, and I never handled any aspect of this case in federal court. As you said, Judge Cox handled it. I don't know where-- someone told me maybe Judge Russell handled one of the other defendants also and-- but I never handled any part of it, never had a thing to do with it at all, and never talked to anyone, state or federal, prosecutor or judge, that in any way influenced anybody with respect to this case. Didn't know anything about it until I read that account in the newspaper. Didn't even know Mr. Fairchild had a son when I was dealing with him in the business transaction.

So I want to say that because I understand that's what this is all about. The investigation is apparently, if the news media is correct, and if I understand it correctly, that's what this is about, the Drew Fairchild criminal case.

And I want to say one other thing. I-- it takes a lot of control on my part not to get-- to say it any stronger. I very deeply resent any insinuation of any kind that I would do anything of that kind. Not only are there no facts to support it, but this has really-- all of this has really hurt and caused pain to my children and my wife and myself, personally. It's an attack on my personal integrity and reputation and we have suffered through all this publicity and everything without any foundation or support of any kind in the way of evidence to support any such accusations of my having anything to do with this case.

But even above and beyond that, it's also an attack on the federal judiciary in the state of Mississippi, the federal judges. I've devoted 16 years, and I've been happy to do it and proud to do it, as United States district judge. My record is unblemished, I'm proud of it. And this has been a terrible thing on-- attacking our reputation, tearing our reputation down, based on something like this, with no supportive evidence, after 12 years of-- next week, of good, unblemished service. I have never done anything improper, illegal, unethical, and I don't intend to. So I resent it because it is a bad reflection, all this type stuff, on the federal judiciary in the state of Mississippi.

But let me just say in parting, Mr. Weingarten and Mr. Richter, I even more-- more am outraged by the insinuation that I would assist anyone involved in drug trafficking, bringing drugs into the state of Mississippi. I have taken care of those kinds of people who have come before me. Most of them are in the federal penitentiary. Most of them will be, go there. But to me that is as bad as someone going into a bank with a gun and robbing. I've got four children. I'm raising four little girls and I know what drugs do to people. I have seen it since I have been on the bench.

And I want to say this too. That I even resent it as much or more because I have always been of the opinion, and always will be, that the man who broke into my 70-year-old mother's home and murdered her in 1965 was either using drugs or broke in to get money to buy drugs. So I'm outraged and I really resent any such insinuation, that this kind of accusation has ever been made against me without supportive evidence.

I appreciate the opportunity to come before this grand jury and give them the facts and tell them how I feel and I appreciate your letting me do so.

MR. WEINGARTEN:

The procedure's, Judge, at this time--

THE WITNESS:

Before I go, I would like to ask anyone on this grand jury if there's any question they would like to ask me with reference to the Drew Fairchild case, because I'll be glad to answer it.

MR. WEINGARTEN:

Judge, let me explain the procedure, at this point, that we're using. We'd ask you to excuse yourself for a second and let the grand jury discuss among themselves whether or not they want any other areas explored.

THE WITNESS:

All right.

MR. WEINGARTEN:

So if you'd be kind enough to please just step outside, and we'll get you when that time arrives.

THE WITNESS:

I'll be happy to.

(WITNESS LEAVES THE ROOM.)

MR. WEINGARTEN:

(WITNESS RETURNS TO THE ROOM)

MR. WEINGARTEN:

Q. Judge, the grand jury wants clarification on two questions. You mentioned a recusal that may or may not be related to the Fairchild drug case.

A. No. This was a civil action involving some oil interests in this oil field-- I think it was the Covington County field--and of course I had an interest in this production in this field. So that was a civil case, completely unrelated to this, but since I had an interest in that, I recused myself because it certainly wasn't proper for me to handle that case because-- but it would have affected my interest in that.

Q. Just so that we're clear, one of the three wells that you had an interest in, there was litigation that was assigned to your court?

A. That's correct.

Q. And you stepped aside?

A. Civil case. Yes, that's right. Yes.

Q. The other question is-- one of the grand jurors wants to know-- when you saw the February '80 document sitting on your desk, and it was 1981, were you concerned or were you irritated that you may be paying interest on a note that was not legal until that very day?

A. Well, Mr.-- I had agreed to pay the ninety-five hundred dollars and it would have involved additional payment but I was willing to pay it. I wasn't going to argue about the matter because Mr. Fairchild had agreed to let me invest in the field and said that he would let me do so and I just didn't feel that I would raise any question about the matter, frankly. And, as it turned out, I don't believe I was even charged for interest. But I didn't know that until, as I told you, the other day when I recomputed it. I thought I had paid since the 1980 transaction.

And I do have my financial disclosure statements here. I thought they were in evidence, the one filed in May of 1982 reflecting that this transaction is a 1981 transaction. So may I hand it (indicating) to you to be put in the record?

Q. Sure.

A. I don't have a copy of my 1980 statement filed in May of '81, but if you have a copy, which I hope you do, I'd like the grand jury to see it because I did not list this transaction on it as a 1980 transaction. I listed it on '82 as a 1981 transaction.

Q. Why don't we put all your statements in evidence?

A. May I give you this (indicating), please? (Handing document to Counsel.)

Q. This is 1982?

A. That's the date it was filed for the year 1981, yes.

Q. Is this the amended return or the original?

A. That's both. Apparently my CPA didn't break down the oil interest that I acquired, and I acquired four, three more in 1980-- in 1981, in addition to this, and they're all stated. It was sent back to break them down and that's what I did. That's what we did, and filed it.

Q. Just so we-- the grand jury might not be clear on that procedure, not being familiar with the disclosure statements.

A. All right.

Q. Is it fair to say, when you first filed your disclosure statement in May '82, you reported, for the first time, oil interests?

A. That's correct. For 1981, and filed in May of 1982. I reported this transaction and the other three that I had entered into, completely unrelated to this, for the year 1981.

Q. And when you first filed the document, you put oil and gas royalty and working interest, and then, paren, acquired in 1981?

A. That's correct.

Q. Is it fair to say the court sent the document back and made a further request?

A. Judge Tamm (phonetic) did, yes. He was in charge of this. Right, break it down and give the dates. And that's what Mr. Logan apparently did and that's why I told you he chose the February '81 date, apparently because he knew we didn't-- I didn't acquire this in 1980 and he must have thought it was a mistake on the instrument and should have been February 25, '81. As I say, he's deceased now. And I wish I could produce him but he died of a heart attack.

Q. Just so we finish, the amended return lists oil and gas royalty interest: One, W. R. Fairchild Construction Company, Ltd., and then three others that are unrelated to Fairchild?

A. That's correct. I say one, of course one was the three wells, the transaction with Fairchild.

Q. I see.

MR. RICHTER:

Q. But prior to having been specifically requested by Judge Camm (phonetic)?

A. Yes.

Q. You didn't put on the disclosure form who you had the oil royalty--

A. Originally, my CPA didn't do that. And Judge Tamm (phonetic) sent it back and asked us to break it down, and we did.

Q. So the reason it was included was because it was specifically requested by--

Q. Yes, that's correct. And that's not

unusual. Most of the time we have to-- we have to be so specific with the statements, make corrections, Judge Tamm (phonetic) sends them back to--

Q. That was the one thing on that form that said you had not completed it to their satisfaction?

A. All of those-- all four of those transactions of 1981, yes, including this one and three completely unrelated ones, oil and gas.

MR. WEINGARTEN:

Q. On this document I note that it's indicated that the value of the oil and gas working interest originally was placed at fifteen to fifty thousand dollars. Was that totaling the four?

A. I don't know how Charles Logan did it. He was my CPA and that's what I paid him to do. I don't know how they evaluate an interest in an oil and gas well. I know what the income that comes from it-- it's not like going out and saying it's a piece of property worth such and such because I--I don't know how to do it to begin with. And, secondly, you never know what the production is going to be or when it's going to run dry. How they eveluate it, I have no idea.

Q. Just getting back to the one question the juror asked.

A. All right.

Q. I'm not sure he's going to be satisfied. As you sat there in '81 and you saw that the deed or the notes reflected an '80 date, a year before, and the notes were for about ninety-five hundred dollars at 10 percent, I guess that's about a thousand dollars.

A. Nine hundred and fifty dollars.

Q. Nine hundred and fifty dollars, obviously. Why didn't you just pick up the phone to Wiley, if you had this relationship, this on-going relationship, and just say correct it?

A. I-- I've told you already I appreciated the man putting me in the thing. He asked me why, I told him. He said he thought it was a worthwhile project, he hoped-- it was not a sure thing, it was a gamble, but that he would do it at-- because of Carroll Ingram's request and because of my motivation.

Q. Okay.

A. And that's-- that's the reason.

Q. Okay, we thank you for--

A. But--

Q. -- for your testimony.

A. -- I'm puzzled. Of course, I know why you're asking the question. But, as I understand it-- well, go ahead. I've already answered your question.

Q. All right.

A. I thought this was an investigation of handling the Drew Fairchild case, which would be the only possible charge of a crime herein, federal crime, and I think I've answered that to your--

Q. Okay.

A. Unequivocally, I had nothing to do with that.

Q. Thank you for your testimony. We'll make copies of the documents and send the originals back to you.

A. All right.

Q. Or to your lawyer.

A. That will be fine.

Q. What's your preference? Your lawyer?

A. It doesn't matter. Mr. Goodman has been looking after this because of my busy schedule, and you may send it to him, Bill

Goodman, Watkins and Eager, in Jackson, or to me. It doesn't matter.

Q. Thank you.

A. You're welcome. Good day, ladies and gentlemen.

(WITNESS LEAVES ROOM)

CERTIFICATE OF COURT REPORTER

I, Dale N. Milford, CSR, RPR, Official Court Reporter for the United States Special Grand Jury for the Southern District of Mississippi, impaneled as a Special Grand Jury on July 18, 1984, and the order appointing the said Dale N. Milford, dated February 21, 1984 and filed with the Clerk of the United States District Court for the Southern District of Mississippi, hereby certify that the foregoing 99 pages, and including this page, contain a true and correct transcript of the proceedings had in Special Grand Jury taken by me in Stenotype and later reduced to typewritten form to the best of my skill and ability.

WITNESS MY SIGNATURE AND SEAL this the 7th day of August 1984.

DALE N. MILFORD, CSR, RPR,
Official Reporter and
Notary Public

My Commission Expires April 18, 1986

HOUSE MANAGERS' EXHIBIT 2 A

IS A CASSETTE TAPE RECORDING

EXHIBIT 3

A. Excerpts from Nixon April 19, 1984 Interview at Issue in Articles of Impeachment

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p. 25
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pp. 31-33
p. 37
p. 43-45
pp. 47-48

B. Excerpts from Nixon July 18, 1984 Grand Jury Testimony at issue in Articles of Impeachment

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A

coming in in eighty-two.

N: Right.

W: Was that part of the deal, that you would not have to pay back money until the oil wells started producing for you personally?

N: I don't, I wouldn't think so, no.

W: I mean, was it an arms-length transaction between you and FAIRCHILD?

N: Far as I know it was. Far as I'm concerned, it certainly was.

W: Did he have anything on his mind that he wanted with you-

N: You'd have to ask him because he's never asked-

W: I mean, did-

N: Anything that or demanded anything. Of course, anything to do with his son's case absolutely had nothing whatsoever, 'cause I don't, I'm not even aware of really what that's about. I think I read something in the paper one time about it since then.

W: Did you-

N: But if you can-

W: Detect anything-

N: If you can detect or know of anything at all where I ever had any connection with his son's case or the disposition of it or handling of it or anything to do with it, I sure wish you'd tell me, and I'll-

W: I, well, I-

N: Because there has-

W: I can assure you, we have no information to that effect-

N: There has, because there has been nothing.

W: No, I, I guess what I'm asking you is whether or not you detected anything untoward from either-

N: Abso-

W: Mr. FAIRCHILD-

N: Absolutely not. If I had, I'da pulled back immediately and wouldn't have had a darn thing to do with it.

W: Did you know at the time- Well, I guess INGRAM represents FAIRCHILD in certain matters?

N: I think so. They may be kin, but they're very close, and I mean he represents him, I know, and-

W: Did he represent his son at all in, in, in this or any other procedure that you know about?

N: I, I have, not, not to my- I have no idea. If I answer that one way or the other, I wouldn't be telling the truth because I don't know. I've never heard him mention it.

W: Could you give us just a rough figure as to the total amount of money you received from these wells?

N: Yes, uh-huh.

W: And was any other pos-

N: To the best of my recollections, I-

W: Was there any other possible business that you discussed with him other than these three wells? I mean, would-

N: Not to my knowledge. I certainly never discussed anything about his son's case.

W: All right, I mean legitimate business-

N: Not to my-

W: Investing somewhere else-

N: Ah, at one time he said he had another well that might be real good if I was interested in investing, and he'd be in touch with me, but he never has- It had to do with some- I forget what they call it. Had school in the name, school land profits- Something, some, something to do generally, but ah he never did ah get in touch with me on that.

W: Have you sought him out to get back involved in business?

N: Not to my recollection. I've talked to him very sporadically on the telephone, but an-

W: Would it be in connection with your wells?

N: Yes, mainly, I wondered why the production had dropped, of course, the income had dropped, that is, but specifically what the situation was and what it looked like in the future-

W:	Do you have any business relationships with him?
N:	With BUD? No.
W:	You're just good personal friends?
N:	Uh-huh.
W:	Ah, has he ever discussed cases with you while he was DA?
N:	What kind of cases?
W:	His cases, the criminal cases in his court.
N:	I think a few murder cases we discussed.
W:	Now, the obvious question, Judge, did he ever discuss the DREW FAIRCHILD drug case with you?
N:	Not to my recollection. I think I would recall it-
W:	Okay.
N:	If he had.
W:	Sitting here now, and I know it's a long time ago-
N:	Uh-huh-
W:	I tell you that ah, the airport bust was August, 1980. Ah, that, I tell you that originally the case was a federal case, got passed to HOLMES.
N:	How did it get passed, what, what happened?
W:	Well-
N:	I don't know anything about it-

W: Frankly, that's-

N: I'm, I'm, interested. I'm curious-

W: Frankly, that's a very good question, and it's quite a ah, what we're looking at here. Ah, I think it's fair to say that with the present administration there's a strong policy toward the federal government sharing its cases with local prosecutors, spread the wealth around so that-

N: I see-

W: The federal prosecutors get interested-

N: I see-

W: And I know that the present U. S. Attorney has a strong predilection in that direction. Now it could very well be ah that ah HOLMES wanted the case for purely legitimate reasons. And certainly (unintelligible)-

N: Was it passed while he was district attorney?

W: Yes, and he received the case, and ah I tell you again to this day, it has not been resolved. Ah, do you have any recollection of discussing that particular case with BUD HOLMES?

N: No.

W: As you sit here, do you have any notion as to who represented ah FAIRCHILD's son?

N: No. I don't know, much less any recollection.

W: Okay.

N: I don't know to this day, and I don't think I've ever known.

discuss the ah FAIRCHILD case with you?

N: Absolutely not.

W: I have to get a little (unintelligible)-

N: I understand, but I-

W: So (unintelligible)-

N: You know-

W: From the time of that bust until ba-basically me talking to you about the case-

N: Uh-huh-

W: You've had no connection, no knowledge of it, and no participation in-

N: Correct-

W: The DREW FAIRCHILD case?

N: Absolutely, except something I read in the paper. It was either an editorial or statement, or, or news article or something, a few years ago, I think-

W: To what effect?

N: About this case. I don't know. It was critical of the way it was handled or something.

W: Critical of the ah prosecutors?

N: Of, of, of- I, I, it was critical of the manner in which it was handled, something about ah it should be handled differently or he should be prosecuted, something should be done or he was being favored, or something to that effect. It was critical of the way in which it was handled, I believe. I, I'm pretty sure that I read that in, maybe in a Hattiesburg paper while I was holding court up there. It could have been the Jackson paper. I subscribe to it.

W: Do you have the clue if the criticism was directed to the feds or to the locals?

N: To the best of my recollection, I think it was ah, ah, I think it was directed to the locals, to the, to, 'cause I never did know it was a federal case. I didn't know it had ever been in the federal system.

W: Do you recall any knowledge of the case, meaning the FAIRCHILD case, while you were dealing with WILEY FAIRCHILD?

N: No.

W: And he certainly never brought it up?

N: Not to my recollection. I think I would recall that.

W: When you saw the article, did you put two and two together and realize that it was WILEY's son?

N: Yes, I think it stated it-

W: Even mentioned it?

N: Yes.

W: Is WILEY a prominent-

N: But I didn't remember the name. Even when you mentioned the name, whatever, what you say-

W: I think his real name is REDDITT-

N: I don't know-

W: And I think the people refer to him as DREW.

N: When you said the REDDITT FAIRCHILD, I didn't know what in the world you were talking about or who.

W: I think they call him that, and I think-

N: And I, I don't know him by any name. I don't know him, never met him, don't know what he looks like-

W: Never met him?

N: No.

W: Never saw him?

N: No.

W: Does he work with his father?

N: I have no idea. Didn't even know he existed, except from what I read about that and what you just told me. Absolutely no.

W: Okay.

(End of Side 1 of tape)

N: I think maybe payments were delayed or something and, and so I think the division orders- I asked why. I think I complained or, or asked about it. I think that's why the division order, so I get my check directly.

W: I think-

N: Well, I don't know about that part of it, but all I know is ah nothing was done or nothing was ever mentioned about WILEY FAIRCHILD's son, and I defy anybody to, and I say defy, I don't mean (unintelligible), but I challenge anybody to show any connection of anything I've ever done in connection with WILEY FAIRCHILD's son's case I certainly would (unintelligible) to begin with. And if I even suspected something like that was going on, I certainly wouldn't have ah invested or have any dealings, absolutely.

W: Is there anything else about the transaction ah that just, on the top of your head, you could think of that may help us in this?

N: No, but why, why, how would my name come up, and how did it come up? That's, I think that's a fair question, that I had any kind of connection with WILEY FAIRCHILD's son's case?

W: Well, I, I, I knew as an intelligent, curious judge, you were gonna-

N: Sure-

W: Ask me that. Judge, it's a confidential informant. I mean, obviously, I mean, you've been in the system long enough to know that the FBI is duty bound not to reveal that kind of information. I can only tell you we receive these allegations all the time, and you know, we can't-

N: Well what's the allegation?

W: The allegation is that the FAIRCHILD case was mishandled, number one, and in the course-

N: By whom?

WS: There was a, he reached a ah memorandum of understanding with the U. S. Attorney. (unintelligible) So far as to arrive at that-

N: Uh-huh-

WS: And, along with his attorney, BILL PORTER, that was on November 19th, 1980-

N: Uh-huh-

WS: And the next significant thing that happened is he's indicted by a Forrest County Grand Jury in August of 1981. Some time between November of 1980 and August of 1981, that case, on DREW FAIRCHILD and another defendant who was a fugitive, was passed down to BUD HOLMES for handling.

W: Believe me. At this point we're not suggesting that there was impropriety in the U. S. Attorney's office or that there was impropriety by Mr. HOLMES. I mean, we have an allegation, and always in these cases our fervent hope that there's a logical, reasonable, legitimate explanation for all of these events. And, and we're at the inception of it, and one of the reasons we came to you is because we're not gonna be scurrying around your neighborhood and not tell you about it-

N: Right. Well I'm puzzled. I, I just don't know anything about it. I, I'm, I'm, I'm learning something about it now.

W: Okay, so I'm- Just to complete the picture-

N: That's what I was, that's what I wanted to ask you, what allegation- I've never heard, you know, never had the case, never heard about the case except what I told you, and ah certainly had nothing to do with it.

W: Sure. To complete the picture-

N: I don't think I could have influenced Judge COX. Do you? (Laughter) I don't think. Think maybe Mrs. COX, maybe, maybe.

W: Just maybe.

N: Maybe-

W: Well anyway-

N: And certainly, but, but, but seriously, I, I, it's, you know, it's just ludicrous to say I've had anything to do with this thing.

W: Well, Judge COX never had DREW's case, just so we're clear on that. The case was never indicted. He had all the co-defendants.

N: Oh, he never was indicted?

W: He was never indicted federally.

N: That's what I'm talking about.

W: When the case got transferred to the DA's office in Hattiesburg, he was indicted-

N: Well, it was never presented to the Federal Grand Jury.

W: Right-

N: Well, that's what I asked awhile ago-

W: Right-

N: Was it ever presented. I meant the federal grand jury-

W: No-

N: Obviously you said he was indicted in the state-

W: Yes, right. It was never presented federally-

N: I see.

W: And he pled guilty in January, eighty-two-

N: Uh-huh-

W: In December, eighty-two, eleven months later, the case was passed to the files, ah it's returned to file, from files to the active list, and he's never been sentenced. And of course now it's April, eighty-four.

N: Uh-huh-

W: You don't have to be a genius or a, a particularly sophisticated FBI Agent to wanna know why a case from August, eighty, has never been resolved to this day ah when the evidence appears to be extremely strong. That's the focus of the allegation. In addition, we received information from the same source that ah- I don't wanna use the word sweetheart, but the word imbalanced financial relationship developed between this Mr. FAIRCHILD, DREW's father, and you, the chief judge of the district-

N: Uh-huh-

W: So here we are. Okay-

N: I don't know what influence the chief federal, dis-U. S. District Judge could have with this case. When, when-

W: And that may well have happened here-

N: Uh-huh-

W: And we're gonna pursue it if, if we possibly can. Judge, the backdating- I mean, I'm sure as an intelligent man, you can perceive the importance now. If you entered into a business relationship with FAIRCHILD in February of eighty, as the deeds and the note reflect, that took place before the bust.

N: Uh-huh.

W: If you took, entered into the relationship in eighty-one, it took place after the bust. People can draw any conclusions they want from that, but that's the chronology. That's why we have to get to the bottom of when things occurred.

N: I understand, but regardless, what connection have I had with ah FAIRCHILD's son's case? Isn't that the bottom line?

W: It, it basically-

N: I mean-

W: Could well be the bottom line.

N: Yeah, what, what-

W: And that's why-

N: Could I have conceivably done?

W: Well, that's why I had to ask you--

N: To influence the case? Ah, I certainly didn't do a thing in the world. I don't know a thing about- But what could I have done?

W: Well, I mean, I don't know what you could have done. I mean it-

N: As United States District Judge.

W: If someone wanted to use their imagination, I suppose they, they could think of things, and, and I, that's why we ask you the question did BUD HOLMES ever talk to you about the case?

N: Oh, no.

W: The answer is no. Did CARROLL INGRAM ever ask you about the case. The answer is no.

N: Right.

W: And did ah WILEY FAIRCHILD ever ask you to do anything.

N: No.

W: The answer is no. I, I think it's still a healthy procedure to get to the bottom of this document business, and if you would be kind enough to do it-

N: If I have, find anything that would be any different from this, February of eighty-

W: Right-

N: I'll call you.

W: And, and my guess is, my- Judge, I, I think my guess is if your accountant is looking at documents, and he puts down on your financial disclosure statement that you purchased this in February of eighty-one. It's reflected on a document, and it could be, unbeknownst to you, that backdating is going on.

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MR. RICHTER:

We're in session, and the judge will be in any second.

(WITNESS ENTERS ROOM)

THE FOREMAN:

Do you solomenly swear that the testimony you're about to give in the cause pending before this grand jury will be the truth, the whole truth and nothing but the truth, so help you God.

THE WITNESS:

I do. Ladies and gentlemen (nods to grand jury).

JUDGE WALTER L. NIXON, JR.,

having been first duly sworn, was examined and testified, as follows:

EXAMINATION

BY MR. WEINGARTEN:

Q. Your name, sir? Your name?

A. Walter L. Nixon, Junior.

Q. And how are you employed?

A. I'm a United States district judge for the Southern District of Mississippi.

Q. And where do you sit, Judge?

A. I didn't understand you.

Q. If you testify, Judge, that you didn't know, we'll accept your testimony.

A. Thank you. So we have that understanding.

Q. Eventually the case was indicted by the state. The grand jury's heard evidence to that effect. You testified that somehow, some way, there was some criticism of the way the state handled the case?

A. That's my best recollection.

Q. And your source of that information?

A. My what?

Q. Your source of that information?

A. As I've told you awhile ago, I either read something about it in the newspaper or heard something about it on TV or someone told me they had read something about or heard something about it, I don't recall.

Q. The grand jury has heard evidence that the prosecutor, the state prosecutor, who eventually handled the case was an individual named Bud Holmes. Is he a friend of yours?

A. Very good friend of mine, long time friend, yes.

Q. Did he ever discuss the Drew Fairchild case with you?

A. No, not to the best of my recollection. I think I would recall if he had.

Q. Was the criticism directed--

A. And as you now, Mr. Weingarten, the federal government has nothing to do with a state court prosecution. Federal courts can't even interfer with an ongoing state criminal case under the law, with one very narrow exception of bad faith as during the civil rights cases, problems, in Mississippi. The federal courts are prohibited, even if we were asked by properly filed proceeding, from interferring in any way or having any input or say so with reference to any state court--ongoing state court criminal action.

Do you agree with me or not? You're a good lawyer, I'm sure.

Q. Judge, I'm sure you can appreciate in a grand jury it's best to proceed with the prosecutor asking the questions.

A. Well, I understand. I'm not trying to be smart with you and I'm not trying to turn around and ask the questions, but I think the grand jury has a right to know what the law is as well as the facts.

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Q. I'm not even sure if the last question was answered. I'll ask it again.

A. All right.

Q. Did anyone from the U. S. Attorney's Office discuss the Drew Fairchild case with you prior to the August '81 indictment?

A. Absolutely not.

Q. Were you alone with Wiley Fairchid in his office?

A. Yes.

Q. On how many occasions?

A. I don't know. More than once, discussing the gas interests.

Q. Carroll Ingram would not have been present on those occasions?

A. No. Sometimes Carroll was present, at least once, maybe twice, but I have talked to Mr. Fairchild separately, yes.

Q. So to place the events in context, would any of those meetings with Mr. Fairchild have taken place in 1981?

A. I don't recall. I wish I could tell you, honestly, but--

Q. Well when did--

A. -- if there were any in 1981 or not.

That's over three years ago. I had several meetings as I told you.

Q. When would the most recent one have been?

A. In his office? I don't know, but it's been many months ago. And that's the only time I've ever met with him. I've talked with him on the phone but that's-- a couple of times about this. And especially one time, when the production dropped in half, I wanted to know what happened and he said something about the gas supply, that the supply, that is the demands or the curtailment or something was what caused it. But that's been months ago, many months.

Q. Was that a telephone conversation or a meeting?

A. Telephone conversation.

Q. The last meeting would have been-- was there a meeting after the effective date of the transfer?

A. Not to my best recollection, but I couldn't honestly tell you that one way or the other and I wouldn't want to deceive anyone or give a false answer.

Q. Your best recollection is the meetings took place before?

A. (No reply)

Q. You don't know?

A. I know-- I know some of them did. Whether any took place after that, I don't recall. This has been over three and a half years or four years ago, Mr. Weingarten. I had no reason to make a notation of the dates of these meetings.

Q. February 1980, the deal is cut, what would have caused you to meet with Wiley Fairchild again before the effective date of the transfer?

A. I don't know of any reason. That's why I doubt that I did, but I--

Q. I don't mean to be obtruse but--

A. You're not.

Q. --how many meetings are we talking about?

A. All together?

Q. Yes.

A. I don't know, there was more than-- more than two. I don't think there was as many as five or four.

Q. Just--

A. Somewhere in that neighborhood. I'd say two to five, probably.

Q. If the first meeting--

A. That's my best guess.

Q. If the first meeting produced the deal, what would the other meetings have been for?

A. I met with him several times. One time he told me that he thought he was over-- maybe overcharging me for these and would maybe put me in another later. He mentioned something about the name of a well was-- I don't know, remember when this was-- it had something to do with the name School in the property. But he never did and there never was any mention of it.

And, as I say, I don't know of any reason I would have met with him after the transaction was finalized in the first part of 1981, but I can't say for sure. It's possible.

You're asking me about-- I-- I don't like to keep repeating it-- but three or four years ago, and I'm trying to reconstruct this to the best of my recollection and knowledge.

Q. Did he ever visit with you in your chambers in Biloxi?

A. No.

Q. The meetings would have taken place here in Hattiesburg?

A. They were paid in full.

Q. --you were paying with the-- with the investment-- for the investment with the income from it?

A. Well, let me say this. I just didn't take the income and transfer it over. It's supplemented any income that I had, certainly-- I don't know in what amount-- but I had enough money to make payments on the notes and I paid on them a little in advance.

MR. RICHTER:

I have no further questions.

MR. WEINGARTEN:

All rigtht. Judge, do you have anything you want to add?

THE WITNESS:

Yes, I do.

I want to say this. I-- Here (indicating) are your notes too, copies of your instruments, rather.

I came here voluntarily and am very happy to cooperate with this grand jury and give them all the information that I have and that I could. And I have always thought everyone should do that, and that goes for the grand jury over which I'm supervising right now, the other federal grand jury that's sitting at this time. I have nothing at all to-- had nothing to hide or nothing to withhold and I brought everything that you have asked me to bring.

And I want to say this. That I've been told and led to believe and read in the newspaper and heard on the news media so much about this is an investigation of the Drew Fairchild criminal case. Now, I have had nothing whatsoever officially or unofficially to do with the Drew Fairchild criminal case in federal court or state court. I don't need to reconstruct anything with reference to that. I've told you that from the beginning.

I have never talked to anyone about the case, any federal judge or state judge, federal prosecutor or state prosecutor, and I never handled any aspect of this case in federal court. As you said, Judge Cox handled it. I don't know where-- someone told me maybe Judge Russell handled one of the other defendants also and-- but I never handled any part of it, never had a thing to do with it at all, and never talked to anyone, state or federal, prosecutor or judge, that in any way influenced anybody with respect to this case. Didn't know anything about it until I read that account in the newspaper. Didn't even know Mr. Fairchild had a son when I was dealing with him in the business transaction.

So I want to say that because I understand that's what this is all about. The investigation is apparently, if the news media is correct, and if I understand it correctly, that's what this is about, the Drew Fairchild criminal case.

And I want to say one other thing. I-- it takes a lot of control on my part not to get-- to say it any stronger. I very deeply resent any insinuation of any kind that I would do anything of that kind. Not only are there no facts to support it, but this has really-- all of this has really hurt and caused pain to my children and my wife and myself, personally. It's an attack on my personal integrity and reputation and we have suffered through all this publicity and everything without any foundation or support of any kind in the way of evidence to support any such accusations of my having anything to do with this case.

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But even above and beyond that, it's also an attack on the federal judiciary in the state of Mississippi, the federal judges. I've devoted 16 years, and I've been happy to do it and proud to do it, as United States district judge. My record is unblemished, I'm proud of it. And this has been a terrible thing on-- attacking our reputation, tearing our reputation down, based on something like this, with no supportive evidence, after 12 years of-- next week, of good, unblemished service. I have never done anything improper, illegal, unethical, and I don't intend to. So I resent it because it is a bad reflection, all this type stuff, on the federal judiciary in the state of Mississippi.

But let me just say in parting, Mr. Weingarten and Mr. Richter, I even more-- more am outraged by the insinuation that I would assist anyone involved in drug trafficking, bringing drugs into the state of Mississippi. I have taken care of those kinds of people who have come before me. Most of them are in the federal penitentiary. Most of them will be, go there. But to me that is as bad as someone going into a bank with a gun and robbing. I've got four children. I'm raising four little girls and I know what drugs do to people. I have seen it since I have been on the bench.

And I want to say this too. That I even resent it as much or more because I have always been of the opinion, and always will be, that the man who broke into my 70-year-old mother's home and murdered her in 196[illegible] was either using drugs or broke in to get money to buy drugs. So I'm outraged and I really resent any such insinuation, that this kind of accusation has ever been made against me without supportive evidence.

I appreciate the opportunity to come before this grand jury and give them the facts and tell them how I feel and I appreciate your letting me do so.

MR. WEINGARTEN:

The procedure's, Judge, at this time--

THE WITNESS:

Before I go, I would like to ask anyone on this grand jury if there's any question they would like to ask me with reference to the Drew Fairchild case, because I'll be glad to answer it.

MR. WEINGARTEN:

ASSIGNMENT OF OVERRIDING ROYALTY ON OIL AND GAS

THE STATE OF MISSISSIPPI
County of FORREST

KNOW ALL MEN BY THESE PRESENTS: that

WHEREAS, heretofore, under date of November 5, 1974

TRAVIS HICKS, a Single Man (Divorced)

as Lessor, did execute and deliver to W. R. FAIRCHILD CONSTRUCTION CO., LTD.

as Lessee, an oil, gas and mineral lease covering the following described lands, situated in Mobile County, [redacted] to wit:
Alabama

******SEE ATTACHMENT HERETO AND MADE A PART HEREOF******

THIS CONVEYANCE IS TO BE EFFECTIVE FROM THE FIRST DAY OF PRODUCTION.

said lease being recorded in Real Property Book 1400 Pages 0449-0450 of the Conveyance Records of said County, reference to which is here made for all purposes; and,

Whereas, said lease or an overriding royalty interest therein is now owned by the undersigned.

NOW, THEREFORE, the undersigned W.-R. FAIRCHILD CONSTRUCTION CO., LTD.

for and in consideration of -------- TEN -------------- ($ 10.00) Dollars and other valuable considerations cash to him in hand paid by ______ the receipt whereof is hereby acknowledged, does hereby bargain, sell and assign unto ______ an overriding royalty equal to 3/20th of 1/8th part of all oil which may be produced and saved by Lessee, his heirs, successors, or assigns from said premises under and by virtue of the above mentioned lease, delivery of such oil to be made free of cost to the credit of assignee into storage tanks provided by assignee, or into the pipe line to which the wells on said premises may be connected. On dry gas or casinghead gas, when marketed from said premises, under and by virtue of the above mentioned lease, assignee shall be paid A Proportionate Part of ______ ~~part of~~ the net proceeds at the wells derived therefrom; and on casinghead gas or other gaseous or vaporous substance produced from said premises under and by virtue of said lease, and utilized by Lessee, his successors and assigns in the manufacture of gasoline, assignee shall be paid A proportionate part of the current market value at the wells of the casinghead gas or other gaseous or vaporous substance so utilized, and assignor shall not be required to make settlement with assignee therefor until assignee shall have executed and delivered to assignor the form of casinghead division order then in use by assignor covering the casinghead gas so utilized.

Fuel oil and gas for operating the premises, and for treating and handling the products therefrom, (and the proportionate part of fuel oil and gas consumed in a central plant, should this lease be operated jointly with other premises through the use of such plant) shall be deducted before said overriding royalties on oil and gas are computed.

After production is secured from said premises, Lessee, his heirs, successors or assigns may, in lieu of using the identical fuel produced on said premises, procure fuel otherwise and charge the same against current production from the leased premises, and said overriding royalties on oil and gas shall in that event be computed on the basis of the net oil produced and saved, and the net gas produced and marketed from said premises, after the deduction of the amount of, and/or charges for the oil and gas so used for fuel.

The overriding royalties herein assigned are assigned subject to the right and power of assignor, and such right and power is hereby reserved by assignor, insofar as the overriding royalties herein assigned may be affected thereby, to pool or combine the acreage covered by the lease above described, or any portion thereof, as to oil and gas, or either of them, with other land, lease or leases in the immediate vicinity thereof to the extent hereinafter stipulated, when in assignor's judgment it is necessary or advisable to do so in order properly to explore or to develop and operate said leased premises in compliance with the orders, rules and regulations of State and Federal Governmental authority, or when to do so would, in the judgment of assignor, promote the conservation of oil and gas from said premises. Units pooled for oil hereunder shall not substantially exceed 40 acres in area, and

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 4

units pooled for gas hereunder shall not substantially exceed in area 640 acres plus a tolerance of 10%, [illegible] provided that should governmental authority having jurisdiction prescribe, or permit the creation of units larger than those specified, units thereafter created may conform substantially in size with those prescribed by governmental regulations. Assignee under the provisions hereof may pool or combine acreage covered by the lease above described or any portion thereof as above provided as to oil in any one or more strata and as to gas in any one or more strata. The units formed by pooling as to any stratum or strata need not conform in size or area with the unit or units into which said lease is pooled or combined as to any other stratum or strata, and oil units need not conform as to area with gas units. The pooling in one or more instances shall not exhaust the rights of assignee to pool the lease above described or portions thereof into other units. Assignee shall file for record in the appropriate records of the county in which the leased premises are situated an instrument describing and designating the pooled acreage as a pooled unit. The pooled unit may include, but it is not required to include, land or leases upon which a well capable of producing oil or gas in paying quantities has theretofore been completed or upon which operations for the drilling of a well for oil or gas have theretofore been commenced. Assignee may exercise its pooling option after commencing operations for or completing an oil or gas well on the leased premises. The entire acreage so pooled into a unit shall be treated for all purposes, except the payment of royalties on production from the pooled unit, as if the same were included in the lease above described. In lieu of the overriding royalties herein assigned and which may become payable on production from a pooled unit, there shall be allocated to the land covered by the lease above described and included in said unit a pro rata portion of the oil and gas, or either of them, produced from the pooled unit, after deducting therefrom that used for operations on the pooled unit, and in addition thereto, as to gas, that which may be furnished to the lessors without cost on such leases in accordance with their terms. Such allocation shall be on an acreage basis, that is to say, there shall be allocated to the acreage covered by the lease above described and included in the pooled unit that pro rata portion of the oil and gas, or either of them, produced from the pooled unit which the number of surface acres covered by the lease above described and included in the pooled unit bears to the total number of surface acres included in the pooled unit. Overriding royalties payable hereunder shall be computed on the portion of such production, whether it be oil and gas, or either of them, so allocated to the land covered by the lease above described and included in the unit just as though such production were from such land. Any pooled unit designated by assignee in accordance with the terms hereof, may be dissolved by assignee by instrument filed for record in the appropriate records of the county in which the leased premises are situated at any time after completion of a dry hole or the cessation of production on said unit.

It is expressly agreed that operations, if any, on said premises, and the extent and duration thereof, as well as the preservation of the leasehold, by rental payments or otherwise, shall be solely at the will of Lessee, his heirs, successors or assigns.

If Lessor in said lease owns a less interest in the premises covered thereby than the entire and undivided fee, then said overriding royalties shall be payable to assignee herein in the proportion which the interest of the Lessor in said land bears to the entire and undivided fee.

The assignment is made without warranty, either express or implied. The terms hereof shall extend to and be binding upon the parties hereto, their heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, this instrument is executed on this the 25th

day of February A. D., 19 81

Partner and General Manager

STATE OF MISSISSIPPI,

County of FORREST

THIS DAY personally appeared before me, the undersigned Notary Public in and for said County and State, the within named WILEY FAIRCHILD who acknowledged that he signed and delivered the within and foregoing instrument on the day and year therein mentioned.

GIVEN under my hand and seal of office, this 25th day of February A. D., 19 81

(Affix Seal)

Lynnette F. Smith
Notary Public

My Commission expires: 12-27-82

Recd for
Rcd. June 9
9-2-81 12:00
[illegible]

RLC
[illegible] 4/201

TOWNSHIP 2 SOUTH, RANGE 1 WEST

NW1/4 of SE1/4 Sec. 28, T2S, R1W, undiv. 1/2 int S1/2 of E1/2 of N1/2 of SE1/4, Sec. 28-T2S-R1W, exc. pt into Suburban Ct MBK 23 P 6, R/W E JoGinnoil Dr; containing 20 Acres, more or less.

IT IS THE INTENT OF THE GRANTOR TO CONVEY AN INTEREST TO A DEPTH OF 100 FEET BELOW THE DEPTH OF ANY WELL NOW BEING DRILLED OR CURRENTLY IN PRODUCTION ON SAID ACREAGE.

IT IS THE INTENT OF THE GRANTOR TO CONVEY Three (3) ~~ONE (1)~~ FULL OVERRIDING ROYALTY ACRES IN THE ABOVE DESCRIBED PROPERTY.

SIGNED FOR IDENTIFICATION

WITNESSES:

Sherry Bennett

Wiley Fairchild
WILEY FAIRCHILD

PRINTED AND FOR SALE BY HEDERMAN BROS., JACKSON, MISS.

OVERRIDING
ROYALTY DEED
(Term)

Know All Men By These Presents:

That FAIRCHILD-WINDHAM EXPLORATION COMPANY for and in consideration of the price and sum of -------------- TEN --------------- ($ 10.00) Dollars and other valuable considerations, cash in hand paid by

hereinafter referred to as grantee, has granted, bargained, sold and conveyed, and does by these presents grant, bargain, sell and convey, unto the said grantee the mineral royalty interest hereinafter set out affecting and relating to the following described lands in the County of Covington State of Mississippi to-wit:

TOWNSHIP 7 NORTH, RANGE 17 WEST

Section 2: N½ of NE¼ and SE¼ of NE¼; and
N½ of NE¼ of SE¼

IT IS THE INTENT OF THE GRANTOR TO CONVEY AN INTEREST TO A DEPTH OF 100 FEET BELOW THE DEPTH OF ANY WELL NOW BEING DRILLED OR CURRENTLY IN PRODUCTION ON SAID ACREAGE.

IT IS THE INTENT OF THE GRANTOR TO CONVEY ~~ONE (1)~~ Five (5) FULL OVERRIDING ROYALTY ACRES.

THIS CONVEYANCE IS TO BE EFFECTIVE FROM THE FIRST DAY OF PRODUCTION.

This conveyance shall be for a period of TWO years from date hereof, and as long thereafter as oil, gas or other minerals are produced from said lands, or from lands with which said lands are pooled or unitized, and also as long thereafter as drilling or reworking operations are being conducted on said lands, or on lands pooled or unitized therewith, without more than 90 days cessation of operations, in an effort to produce oil, gas or other minerals, and if said operations result in the production of said minerals, then for as long thereafter as oil, gas or other minerals are produced from said lands, or from lands pooled or unitized therewith. A shut-in gas well shall be considered as a producing well and shall perpetuate the term of this conveyance.

The royalty interests and rights herein sold, transferred and conveyed are:

(a) 5/140th of 1/8th of the whole of any oil, gas or other minerals, except sulphur, on and under and to be produced from said lands, delivery of said royalties to be made to the purchaser herein in the same manner as is provided for the delivery of royalties by any present or future mineral lease affecting said lands.

(b) Proportionate part of cents per long ton for all sulphur produced from said lands, payments therefor to be made monthly for sulphur marketed.

This sale and transfer is made and accepted subject to any oil, gas and mineral lease now affecting said lands, but the royalties hereinabove described shall be delivered and/or paid to the purchaser out of and deducted from the royalties reserved to the lessor in any such lease. This sale and transfer, however, is not limited to royalties accruing under any lease presently affecting said lands, but the rights herein granted are and shall remain a charge and burden on the land herein described and binding on any future owners or lessees of said lands and, in the event of the termination of any present lease, the said royalties shall be delivered and/or paid out of the whole of any oil, gas or other minerals produced from said lands by the owner, lessee or anyone else operating thereon.

The grantor herein reserves the right to grant future leases affecting said lands so long as there shall be included therein, for the benefit of the grantee herein, the royalty rights herein conveyed, and the grantor further reserves the right to collect and retain all bonuses and rentals paid for or in connection with any future lease or accruing under the lease now outstanding.

TO HAVE AND TO HOLD said royalty rights unto the said purchaser, for the term above stated, and the said grantor hereby agrees to warrant and forever defend said rights unto the said purchaser against any person whomsoever lawfully claiming or to claim the same.

WITNESS the signature of grantor, this the 25th day of February, 19 81

[illegible]

WITNESSES:

R L [illegible]

[illegible] Bennett

JOINT OR SINGLE ACKNOWLEDGMENT
(MISSISSIPPI-ALABAMA-FLORIDA)

STATE OF Mississippi

COUNTY OF Forrest

I hereby certify, that on this day, before me, a NOTARY PUBLIC duly authorized in the state and county aforesaid to take acknowledgments, personally appeared WILEY FAIRCHILD to me known to be the person ______ described in and who executed the foregoing instrument and ______ he ______ acknowledged before me that, being informed of the contents of the same, ______ he ______ voluntarily signed and delivered the within and foregoing instrument on the day and year therein mentioned.

Given under my hand and official seal, this 25th day of February A.D. 19 81

(Affix Seal)

Lynnette J. Smith

Notary Public
(Title of Official)

My commission expires 12-27-82 in and for Forrest County, Mississippi.

WITNESS ACKNOWLEDGMENT
(MISSISSIPPI-ALABAMA-FLORIDA)

STATE OF ______

COUNTY OF ______

I, a ______ in and for the aforesaid jurisdiction, hereby certify that ______ a subscribing witness to the foregoing instrument, known to me, appeared before me on this day, and being sworn, stated that ______ the grantor(s), having been informed of the contents thereof, voluntarily executed and delivered the same in his presence, and in the presence of the other subscribing witness, on the day the same bears date; that he attested the same in the presence of the grantor(s), and of the other witness, and that such other witness subscribed his name as a witness in his presence.

______
(Subscribing Witness)

Given under my hand and official seal, this ______ day of ______ 19____

(Affix Seal)

______
(Title of Official)

My commission expires ______ in and for ______ County, ______

OVERRIDING

ROYALTY DEED

FROM

______

TO

______

Dated ______ 19____

County of ______

State of ______

This instrument was filed for record on the ______ day of ______ 19____, at ______ o'clock ______ and duly recorded in Book ______, Page ______ of the ______ records of this office.

______ County Clerk

By ______ Deputy

When recorded return to

______

M-18T—Mississippi-Alabama-Florida

[illegible] 5TC

OVERRIDING
ROYALTY DEED
(Term)

Know All Men By These Presents:

That W. R. FAIRCHILD CONSTRUCTION CO., LTD. for and in consideration of the price and sum of ------------- TEN ----------------- ($ 10.00) Dollars and other valuable considerations, cash in hand paid by

hereinafter referred to as grantee, has granted, bargained, sold and conveyed, and does by these presents grant, bargain, sell and convey, unto the said grantee the mineral royalty interest hereinafter set out affecting and relating to the following described lands in the County of Marion, State of Mississippi to-wit:

TOWNSHIP 5 NORTH, RANGE 19 WEST

Section 28: NE¼ of SE¼; S½ of SE¼; N½ of SW¼ of SW¼; SE¼ of SW¼; N½ of SW¼ and S½ of NW¼

IT IS THE INTENT OF THE GRANTOR TO CONVEY AN INTEREST TO A DEPTH OF 100 FEET BELOW THE DEPTH OF ANY WELL NOW BEING DRILLED OR CURRENTLY IN PRODUCTION ON SAID ACREAGE.

IT IS THE INTENT OF THE GRANTOR TO CONVEY Three ~~ONE (1)~~ FULL OVERRIDING ROYALTY ACRES

THIS CONVEYANCE IS TO BE EFFECTIVE FROM THE FIRST DAY OF PRODUCTION.

This conveyance shall be for a period of TWO years from date hereof, and as long thereafter as oil, gas or other minerals are produced from said lands, or from lands with which said lands are pooled or unitized, and also as long thereafter as drilling or reworking operations are being conducted on said lands, or on lands pooled or unitized therewith, without more than 90 days cessation of operations, in an effort to produce oil, gas or other minerals, and if said operations result in the production of said minerals, then for as long thereafter as oil, gas or other minerals are produced from said lands, or from lands pooled or unitized therewith. A shut-in gas well shall be considered as a producing well and shall perpetuate the term of this conveyance.

The royalty interests and rights herein sold, transferred and conveyed are:

(a) 3/340th of 1/8th of the whole of any oil, gas or other minerals, except sulphur, on and under and to be produced from said lands; delivery of said royalties to be made to the purchaser herein in the same manner as is provided for the delivery of royalties by any present or future mineral lease affecting said lands.

(b) Proportionate part of cents per long ton for all sulphur produced from said lands, payments therefor to be made monthly for sulphur marketed.

This sale and transfer is made and accepted subject to any oil, gas and mineral lease now affecting said lands, but the royalties hereinabove described shall be delivered and/or paid to the purchaser out of and deducted from the royalties reserved to the lessor in any such lease. This sale and transfer, however, is not limited to royalties accruing under any lease presently affecting said lands, but the rights herein granted are and shall remain a charge and burden on the land herein described and binding on any future owners or lessees of said lands and, ~~in the event of the~~ termination of any present lease, [illegible] shall be delivered [illegible] of the whole of any oil, gas or other minerals produced from said lands by the owner, lessee or anyone else operating thereon.

The grantor herein reserves the right to grant future leases affecting said [illegible] shall be included therein, for the benefit of the grantee herein, the royalty rights herein conveyed; and [illegible] reserves the [illegible] and retain all bonuses and rentals paid for or in connection with any future lease or accruing under the lease now [illegible]

TO HAVE AND TO HOLD said royalty rights unto the said purchaser, for the term above stated, and the said grantor hereby agrees to warrant and forever defend said rights unto the said purchaser against any person whomsoever lawfully claiming or to claim the same.

WITNESS the signature of grantor, this the 25th day of February 1981

WITNESSES:

JOINT OR SINGLE ACKNOWLEDGMENT
(MISSISSIPPI-ALABAMA-FLORIDA)

STATE OF Mississippi

COUNTY OF Forrest

I hereby certify, that on this day, before me, a NOTARY PUBLIC duly authorized in the state and county aforesaid to take acknowledgments, personally appeared WILEY FAIRCHILD to me known to be the person ________ described in and who executed the foregoing instrument and ________ he ________ acknowledged before me that, being informed of the contents of the same, ________ he ________ voluntarily signed and delivered the within and foregoing instrument on the day and year therein mentioned.

Given under my hand and official seal, this 25th day of February, A.D. 19 81

(Affix Seal)

Lynnette S. Smith

Notary Public
(Title of Official)

My commission expires 12-27-82 in and for Forrest County, Mississippi

WITNESS ACKNOWLEDGMENT
(MISSISSIPPI-ALABAMA-FLORIDA)

STATE OF ________

COUNTY OF ________

I, a ________ in and for the aforesaid jurisdiction, hereby certify that ________ a subscribing witness to the foregoing instrument, known to me, appeared before me on this day, and being sworn, stated that ________ the grantor(s), having been informed of the contents thereof, voluntarily executed and delivered the same in his presence, and in the presence of the other subscribing witness, on the day the same bears date; that he attested the same in the presence of the grantor(s), and of the other witness, and that such other witness subscribed his name as a witness in his presence.

____
(Subscribing Witness)

Given under my hand and official seal, this ________ day of ________, 19____

(Affix Seal)

____
(Title of Official)

My commission expires ________ in and for ________ County, ________

OVERRIDING
ROYALTY DEED

FROM

TO

Dated ________ 19____

County of

State of

This instrument was filed for record on the ________ day of ________ 19____ at ________ o'clock ________ and duly recorded in Book ________ Page ________ of the ________ records of this office

County Clerk

By ________ Deputy

When recorded return to:

M-187—Mississippi-Alabama-Florida

12 42

179 RLG

UNITED STATES OF AMERICA

STATE OF ALABAMA

IN THE PROBATE COURT OF MOBILE COUNTY

I, Joe D. McEarchern, Jr., Chief Clerk of the Probate Court in and for said County and State, do hereby ce

that the annexed .3... Page(s) is a true and correct copy of ..the. instrument. recorded. in......

......Real Property Book 2401 Page 406 et seq,..............................

as the same appears of record in the said Probate Court,

In Testimony Whereof, I have hereunto set my hand and affixed the seal o
said Court, in the City of Mobile, this the .11t
day of .December....... in the year of our
one thousand nine hundred .Eighty-Five.
and of the Independence of the United State
..210th.......... year ....

Chief Clerk

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 5

STATE OF ALABAMA

Mobile County

I, L. W. NOONAN, sole Judge of the Probate Court of Mobile County, in the State of Alabama, do hereby c that Joe D. McEarchern, Jr. is the Chief Clerk of said Court; that the same is a Court of Record, having probate ju tion, and that the signature of Joe D. McEarchern, Jr., Chief Clerk; to the foregoing certificate is in proper handw of him, the said Joe D. McEarchern, Jr., Chief Clerk; to his official acts as such, full faith and credit are due and c and I do further certify that his attestation is in due form of law.

GIVEN, under my hand and seal of said Court, in the City of Mobi
this ....11th.. day of ..December............ A.D. 19 85....

Noonan
Probate Judge

I, Joe D. McEarchern, Jr., Chief Clerk of the Probate Court of Mobile County, in the State of Alabama, do h certify that L. W. NOONAN, whose genuine signature appears to the foregoing certificate, is now and was at th of signing the same, sole Judge of the Probate Court of Mobile County, duly elected and commissioned, and qu as such; and that said attestation is in due form of law.

WITNESS, My hand and seal of said Court, this ......11th..........
day of ...December.............................. A.D. 1985

Chief Clerk

[illegible]

787272

ASSIGNMENT OF OVERRIDING ROYALTY ON OIL AND GAS

THE STATE OF MISSISSIPPI
County of FORREST

KNOW ALL MEN BY THESE PRESENTS: that

WHEREAS, heretofore, under date of November 5, 1974

TRAVIS HICKS, a Single Man (Divorced)

as Lessor, did execute and deliver to W. R. FAIRCHILD CONSTRUCTION CO., LTD.

as Lessee, an oil, gas and mineral lease covering the following described lands, situated in Mobile County, ~~Mississippi~~ to wit:

TOWNSHIP 2 SOUTH, RANGE 1 WEST

NW1/4 of SE1/4 Sec. 28, T2S, R1W, undiv. 1/2 int S1/2 of E1/2 of N1/2 of SE1/4, Sec. 28-T2S-R1W, exc. pt into Suburban Ct MBK 23 P 6, R/W JoGinnell Dr, containing 20 Acres, more or less.

IT IS THE INTENT OF THE GRANTOR TO CONVEY AN INTEREST TO A DEPTH OF 100 FEET BELOW THE DEPTH OF ANY WELL NOW BEING DRILLED OR CURRENTLY IN PRODUCTION ON SAID ACREAGE.

IT IS THE INTENT OF THE GRANTOR TO CONVEY THREE (3) FULL OVERRIDING ROYALTY ACRES IN THE ABOVE DESCRIBED PROPERTY.

SIGNED FOR IDENTIFICATION

WITNESSES:

Billy Riley

W. R. FAIRCHILD CONSTRUCTION CO. LT

Wiley Fairchild
WILEY FAIRCHILD
Partner and General Manager

******SEE ATTACHMENT HERETO AND MADE A PART OF HEREOF******

THIS CONVEYANCE IS TO BE EFFECTIVE FROM THE FIRST DAY OF PRODUCTION.

said lease being recorded in Real Property Book 1400 Pages 0449-0450 of the Conveyance Records of said County, reference to which is here made for all purposes; and,

Whereas, said lease or an overriding royalty interest therein is now owned by the undersigned.

NOW, THEREFORE, the undersigned W. R. FAIRCHILD CONSTRUCTION CO., LTD.

for and in consideration of -------- TEN -------------- ($ 10.00) Dollars

and other valuable considerations cash to him in hand paid by Walter L. Nixon, Jr.

the receipt whereof is hereby acknowledged, does hereby bargain, sell and assign unto

Walter L. Nixon, Jr., P. O. Drawer A, an overriding royalty equal to
Biloxi, Mississippi 39533

✓ 3/20th of 1/8th part of all oil which may be produced and saved by Lessee, his heirs, successors, or assigns from said premises under and by virtue of the above mentioned lease, delivery of such oil to be made free of cost to the credit of assignee into storage tanks provided by assignee, or into the pipe line to which the wells on said premises may be connected. On dry gas or casinghead gas, when marketed from said premises, under and by virtue of the above mentioned lease, assignee shall be paid A Proportionate Part of ~~part of~~ the net proceeds at the wells derived therefrom; and on casinghead gas or other gaseous or vaporous substance produced from said premises under and by virtue of said lease, and utilized by Lessee, his successors and assigns in the manufacture of gasoline, assignee shall be paid A proportionate part of the current market value at the wells of the casinghead gas or other gaseous or vaporous substance so utilized, and assignor shall not be required to make settlement with assignee therefor until assignee shall have executed and delivered to assignor the form of casinghead division order then in use by assignor covering the casinghead gas so utilized.

Fuel oil and gas for operating the premises, and for treating and handling the products therefrom, (and the proportionate part of fuel oil and gas consumed in a central plant, should this lease be operated jointly with other premises through the use of such plant) shall be deducted before said overriding royalties on oil and gas are computed.

After production is secured from said premises, Lessee, his heirs, successors or assigns may, in lieu of using the identical fuel produced on said premises, procure fuel otherwise and charge the same against current production from the leased premises, and said overriding royalties on oil and gas shall in that event be computed on the basis of the net oil produced and saved, and the net gas produced and marketed from said premises, after the deduction of the amount of, and/or charges for the oil and gas so used for fuel.

The overriding royalties herein assigned are assigned subject to the right and power of assignor, and such right and power is hereby reserved by assignor, insofar as the overriding royalties herein assigned may be affected thereby, to pool or combine the acreage covered by the lease above described, or any portion thereof, as to oil and gas, or either of them, with other land, lease or leases in the immediate vicinity thereof to the extent, hereinafter stipulated, when in assignor's judgment it is necessary or advisable to do so in order properly to explore or to develop and operate said leased premises in compliance with the orders, rules and regulations of State and Federal Governmental authority, or when to do so would, in the judgment of assignor, promote the conservation of oil and gas from said premises. Units pooled for oil hereunder shall not substantially exceed 40 acres in area, and units pooled for gas hereunder shall not substantially exceed in area 320 acres plus a tolerance of 10% thereof, provided that should governmental authority having jurisdiction prescribed or permit the creation of units larger than those specified, units thereafter created may conform substantially in size with those prescribed by governmental regulations. Assignor under the provisions hereof may pool or combine acreage covered by the lease above described or any portion thereof as above provided as to oil in any one or more strata and as to gas in any one or more strata. The units formed by pooling as to any stratum or strata need not conform in size or area with the unit or units into which said lease is pooled or combined as to any other stratum or strata, and oil units need not conform as to area with gas units. The pooling in one or more instances shall not exhaust the rights of assignor to pool the lease above described or portions thereof into other units. Assignor shall file for record in the appropriate records of the county in which the leased premises are situated an instrument describing and designating the pooled acreage as a pooled unit. The pooled unit may include, but it is not required to include, land or leases upon which a well capable of producing oil or gas in paying quantities has theretofore been completed or upon which operations for the drilling of a well for oil or gas have theretofore been commenced. Assignor may at its election exercise its pooling option after commencing operations for or completing an oil or gas well on the leased premises. The entire acreage so pooled into a unit shall be treated for all purposes, except the payment of royalties on production from the pooled unit, as if the same were included in the lease above described. In lieu of the overriding royalties hereby assigned and which may become payable on production from a pooled unit, there shall be allocated to the land covered by the lease above described and included in said unit a pro rata portion of the oil and gas, or either of them, produced from the pooled unit, after deducting therefrom that used for operations on the pooled unit, and in addition thereto, as to gas, that which may be furnished to the lessors therein for use on such leases in accordance with their terms. Such allocation shall be on an acreage basis, that is to say, there shall be allocated to the acreage covered by the lease above described and included in the pooled unit that pro rata portion of the oil and gas, or either of them produced from the pooled unit which the number of surface acres covered by the lease above described and included in the pooled unit bears to the total number of surface acres included in the pooled unit. Overriding royalties payable hereunder shall be computed on the portion of such production whether it be oil and gas, or either of them, so allocated to the land covered by the lease above described and included in the unit just as though such production were from such land. Any pooled unit designated by assignor in accordance with the terms hereof, may be dissolved by assignor by instrument filed for record in the appropriate records of the county in which the leased premises are situated at any time after completion of a dry hole or the cessation of production on said unit.

It is expressly agreed that operations, if any, on said premises, and the extent and duration thereof, as well as the preservation of the leasehold, by rental payments or otherwise, shall be solely at the will of Lessee, his heirs, successors or assigns.

If Lessor in said lease owns a less interest in the premises covered thereby than the entire and undivided fee, then said overriding royalties shall be payable to assignee herein in the proportion which the interest of the Lessor in said land bears to the entire and undivided fee.

The assignment, is made without warranty, either express or implied. The terms hereof shall extend to and be binding upon the parties hereto, their heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, this instrument is executed on this the 25th day of February, A. D. 1980

Wiley Fairchild
Partner and General Manager of W. R. Fairchild Construction Co., Ltd.

STATE OF MISSISSIPPI,
County of FORREST

THIS DAY personally appeared before me, the undersigned Notary Public in and for said County and State, the within named WILEY FAIRCHILD who acknowledged that he signed and delivered the within and foregoing instrument on the day and year therein mentioned.

GIVEN under my hand and seal of office, this 25th day of February, A. D. 1980

(Affix Seal)
My Commission expires: 12-27-82

Lynnette F. Smith
Notary Public.

PREPARED BY:
Wiley Fairchild
P. O. Box 1857
Hattiesburg, MS 39401

STATE OF MISSISSIPPI
I CERTIFY THIS INSTRUMENT WAS FILED ON
OCT 19 10 03 AM '82
5.00

GOVERNMENT
EXHIBIT
13

This is a true and correct copy
this the 3 day of Jan 1986
CODY M. BUCKLEY
CHANCERY CLERK
Barbara Ham DC

Form M-197 Rev. 11-74
Mississippi-Alabama-Florida

PRINTED AND FOR SALE BY
HEDERMAN BROS. JACKSON, MISS.

OVERRIDING ROYALTY DEED

(Term)

BOOK 836 PAGE 258

Know All Men By These Presents:

That W. R. FAIRCHILD CONSTRUCTION CO., LTD. for and in consideration of the price and sum of ---------------- TEN ----------------- ($ 10.00) Dollars and other valuable considerations, cash in hand paid by WALTER L. NIXON, JR.

hereinafter referred to as grantee, has granted, bargained, sold and conveyed, and does by these presents grant, bargain, sell and convey, unto the said grantee the mineral royalty interest hereinafter set out affecting and relating to the following described lands in the County of Marion State of Mississippi, to-wit:

TOWNSHIP 5 NORTH, RANGE 19 WEST

Section 28: NE¼ of SE¼; S½ of SE¼; N½ of SW¼ of SW¼; SE¼ of SW¼; N½ of SW¼ and S½ of NW¼

IT IS THE INTENT OF THE GRANTOR TO CONVEY AN INTEREST TO A DEPTH OF 100 FEET BELOW THE DEPTH OF ANY WELL NOW BEING DRILLED OR CURRENTLY IN PRODUCTION ON SAID ACREAGE.

IT IS THE INTENT OF THE GRANTOR TO CONVEY THREE (3) FULL OVERRIDING ROYALTY ACRES.

THIS CONVEYANCE IS TO BE EFFECTIVE FROM THE FIRST DAY OF PRODUCTION.

MINERAL
TAX
CANCELLED
MARION
MISSISSIPPI

This conveyance shall be for a period of TWO years from date hereof, and as long thereafter as oil, gas or other minerals are produced from said lands, or from lands with which said lands are pooled or unitized, and also as long thereafter as drilling or reworking operations are being conducted on said lands, or on lands pooled or unitized therewith, without more than 90 days cessation of operations, in an effort to produce oil, gas or other minerals, and if said operations result in the production of said minerals, then for as long thereafter as oil, gas or other minerals are produced from said lands, or from lands pooled or unitized therewith. A shut-in gas well shall be considered as a producing well and shall perpetuate the term of this conveyance.

The royalty interests and rights herein sold, transferred and conveyed are:

(a) 3/340th of 1/8th of the whole of any oil, gas or other minerals, except sulphur, on and under and to be produced from said lands; delivery of said royalties to be made to the purchaser herein in the same manner as is provided for the delivery of royalties by any present or future mineral lease affecting said lands.

(b) Proportionate part of cents per long ton for all sulphur produced from said lands, payments therefor to be made monthly for sulphur marketed.

This sale and transfer is made and accepted subject to any oil, gas and mineral lease now affecting said lands, but the royalties hereinabove described shall be delivered and/or paid to the purchaser out of and deducted from the royalties reserved to the lessor in any such lease. This sale and transfer, however, is not limited to royalties accruing under any lease presently affecting said lands, but the rights herein granted are and shall remain a charge and burden on the land herein described and binding on any future owners or lessors of said lands and, in the event of the termination of any present lease, the said royalties shall be delivered and/or paid out of the whole of any oil, gas or other minerals produced from said lands by the owner, lessee or anyone else operating thereon.

The grantor herein reserves the right to grant future leases affecting said lands so long as there shall be included therein, for the benefit of the grantee herein, the royalty rights herein conveyed; and the grantor further reserves the right to collect and retain all bonuses and rentals paid for or in connection with any future lease or accruing under the lease now outstanding.

TO HAVE AND TO HOLD said royalty rights unto the said purchaser, for the term above stated, and the said grantor hereby agrees to warrant and forever defend said rights unto the said purchaser against any person whomsoever lawfully claiming or to claim the same.

WITNESS the signature of grantor, this the 25th day of February 1980

Emily Fairchild

WITNESSES:

Billy Riley

JOINT OR SINGLE ACKNOWLEDGMENT
(MISSISSIPPI-ALABAMA-FLORIDA)

STATE OF Mississippi

COUNTY OF Forrest

I hereby certify, that on this day, before me, a NOTARY PUBLIC duly authorized in the state and county aforesaid to take acknowledgments, personally appeared WILEY FAIRCHILD to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that, being informed of the contents of the same, he voluntarily signed and delivered the above and foregoing instrument on the day and year therein mentioned.

Given under my hand and official seal, this 25th day of February A.D., 19 80

(Affix Seal)

Lynnette F. Smith

Notary Public
(Title of Official)

My commission expires 12-27-82 in and for Forrest County, Miss.

WITNESS ACKNOWLEDGMENT
(MISSISSIPPI-ALABAMA-FLORIDA)

STATE OF

COUNTY OF

I, a in and for the aforesaid jurisdiction, hereby certify that

a subscribing witness to the foregoing instrument, known to me, appeared before me on this day, and being sworn, stated that

the grantor(s), having been informed of the contents thereof, voluntarily executed and delivered the same in his presence, and in the presence of the other subscribing witness, on the day the same bears date; that he attested the same in the presence of the grantor(s), and of the other witness, and that such other witness subscribed his name as a witness in his presence.

(Subscribing Witness)

Given under my hand and official seal, this day of 19

(Affix Seal)

(Title of Official)

My commission expires in and for County,

ROYALTY DEED

FROM

TO

2129

Dated 19

County of Marion

State of Miss

This instrument was filed for record on the 6 day of April 19 81 at 11:30 o'clock AM and duly recorded in Book 836 Page 258 of the M D records of this office.

Cody M. Buckley
County Clerk

By Barbara Boyd Deputy

When recorded return to

" J "

GOVERNMENT
EXHIBIT
14

Book 125

Form M-187 Rev. 11/74
Mississippi-Alabama-Florida

PRINTED AND FOR SALE BY
HEDERMAN BROS. JACKSON, MISS.

OVERRIDING ROYALTY DEED

(Term)

Know All Men By These Presents:

That FAIRCHILD-WINDHAM EXPLORATION COMPANY for and in consideration of the price and sum of ----- TEN ----- ($10.00) Dollars and other valuable considerations, cash in hand paid by WALTER L. NIXON, JR., hereinafter referred to as grantee, has granted, bargained, sold and conveyed, and does by these presents grant, bargain, sell and convey, unto the said grantee the mineral royalty interest hereinafter set out affecting and relating to the following described lands in the County of Covington, State of Mississippi to-wit:

TOWNSHIP 7 NORTH, RANGE 17 WEST

Section 2: N 1/2 of NE 1/4 and SE 1/4 of NE 1/4; and
N 1/2 of NE 1/4 of SE 1/4

IT IS THE INTENT OF THE GRANTOR TO CONVEY AN INTEREST TO A DEPTH OF 100 FEET BELOW THE DEPTH OF ANY WELL NOW BEING DRILLED OR CURRENTLY IN PRODUCTION ON SAID ACREAGE.

IT IS THE INTENT OF THE GRANTOR TO CONVEY FIVE (5) FULL OVERRIDING ROYALTY ACRES.

THIS CONVEYANCE IS TO BE EFFECTIVE FROM THE FIRST DAY OF PRODUCTION.

This conveyance shall be for a period of TWO years from date hereof, and as long thereafter as oil, gas or other minerals are produced from said lands, or from lands with which said lands are pooled or unitized, and also as long thereafter as drilling or reworking operations are being conducted on said lands, or on lands pooled or unitized therewith, without more than 90 days cessation of operations, in an effort to produce oil, gas or other minerals, and if said operations result in the production of said minerals, then for as long thereafter as oil, gas or other minerals are produced from said lands, or from lands pooled or unitized therewith. A shut-in gas well shall be considered as a producing well and shall perpetuate the term of this conveyance.

The royalty interests and rights herein sold, transferred and conveyed are:

(a) 5/140th of 1/8th of the whole of any oil, gas or other minerals, except sulphur, on and under and to be produced from said lands; delivery of said royalties to be made to the purchaser herein in the same manner as is provided for the delivery of royalties by any present or future mineral lease affecting said lands.

(b) Proportionate part of cents per long ton for all sulphur produced from said lands, payments therefor to be made monthly for sulphur marketed.

This sale and transfer is made and accepted subject to any oil, gas and mineral lease now affecting said lands, but the royalties hereinabove described shall be delivered and/or paid to the purchaser out of and deducted from the royalties reserved to the lessor in any such lease. This sale and transfer, however, is not limited to royalties accruing under any lease presently affecting said lands, but the rights herein granted are and shall remain a charge and burden on the land herein described and binding on any future owners or lessees of said lands and, in the event of the termination of any present lease, the said royalties shall be delivered and/or paid out of the whole of any oil, gas or other minerals produced from said lands by the owner, lessee or anyone else operating thereon.

The grantor herein reserves the right to grant future leases affecting said lands so long as there shall be included therein, for the benefit of the grantee herein, the royalty rights herein conveyed; and the grantor further reserves the right to collect and retain all bonuses and rentals paid for or in connection with any future lease or accruing under the lease now outstanding.

TO HAVE AND TO HOLD said royalty rights unto the said purchaser, for the term above stated, and the said grantor hereby agrees to warrant and forever defend said rights unto the said purchaser against any person whomsoever lawfully claiming or to claim the same.

WITNESS the signature of grantor, this the 25th day of February, 1980

WITNESSES:

Billy Riley

Book 125

567

JOINT OR SINGLE ACKNOWLEDGMENT
(MISSISSIPPI-ALABAMA-FLORIDA)

STATE OF Mississippi

COUNTY OF Forrest

I hereby certify, that on this day, before me, a NOTARY PUBLIC duly authorized in the state and county aforesaid to take acknowledgments, personally appeared WILEY FAIRCHILD to me known to be the person ________ described in and who executed the foregoing instrument and ________ he ________ acknowledged before me that, being informed of the contents of the same, ________ he ________ voluntarily signed and delivered the above and foregoing instrument on the day and year therein mentioned.

Given under my hand and official seal, this 25th day of February A.D. 19 80

Lynnette J. Smith

Notary Public
(Title of Official)

My commission expires 12-27-82 in and for Forrest County, Miss.

WITNESS ACKNOWLEDGMENT
(MISSISSIPPI-ALABAMA-FLORIDA)

STATE OF ________

COUNTY OF ________

I, a ________ in and for the aforesaid jurisdiction, hereby certify that ________ a subscribing witness to the foregoing instrument, known to me, appeared before me on this day, and being sworn, stated that ________ the grantor(s), having been informed of the contents thereof, voluntarily executed and delivered the same in his presence, and in the presence of the other subscribing witness, on the day the same bears date; that he attested the same in the presence of the grantor(s), and of the other witness, and that such other witness subscribed his name as a witness in his presence.

____
(Subscribing Witness)

Given under my hand and official seal, this ________ day of ________ 19____

(Affix Seal)

____
(Title of Official)

My commission expires ________ in and for ________ County, ________

MINERAL DOCUMENTARY TAX CANCELLED COVINGTON COUNTY 50 FIFTY CENTS 50

MINERAL DOCUMENTARY TAX CANCELLED COVINGTON COUNTY 50 FIFTY CENTS 50

ROYALTY DEED

FROM

TO

Dated April 6 19 81

County of Covington

State of Miss.

This instrument was filed for record on the 10th day of April 19 81 at 11:30 o'clock AM and duly recorded in Book 125 Page 566 of the O/R records of this office

Lynn Mayfield County Clerk

By Susan Karalyi Deputy

When recorded return to

M 181 — Mississippi-Alabama-Florida

CERTIFIED a true copy of original instrument now on record in my office. This the 3rd day of January, 19 86.

Lynn Mayfield
CHANCERY CLERK
Covington County, Miss.

NEGOTIABLE PROMISSORY NOTE

STATE OF MISSISSIPPI
COUNTY OF

For value received, the undersigned, WALTER L. NIXON, JR., hereby unconditionally promises to pay to the order of W. R. FAIRCHILD CONSTRUCTION CO., LTD., Post Office Box 1857, Hattiesburg, Mississippi, 39401, in lawful money of the United States of America, the principal sum of Three Thousand Dollars ($3,000.00), together with simple interest on the unpaid balance thereof at the rate of ten percent (10%) per annum from and after date hereof, due and payable three (3) years from the date hereof, which due date shall be February 25, 1983.

The undersigned maker hereby agrees that upon the nonpayment at any maturity of any of the obligations or liabilities hereof, or upon the suspension, failure or insolvency, or upon any application for the adjudication of bankruptcy of any party hereto, or upon the application by or against any party hereto for a respite, assignment, or receivership, then and in any such case, this note and all the obligations and liabilities hereof shall forthwith mature and become immediately due and payable, without demand or notice, anything to the contrary notwithstanding.

The undersigned maker hereby further agrees to pay the fees of an attorney at law who, owing to default in the payment of any sum due hereunder or in the performance of any other terms or conditions hereof, may be employed to recover the amount hereof, or any part thereof, in principal or interest, or to protect the interest of the holders hereof, or to compromise, or to take other action in regard hereto, which fees shall in no event be less than fifteen percent (15%) of the amount then owing and sought to be collected, protected or preserved.

All parties hereto severally waive presentment for payment, demand, notice of nonpayment, protest, and notice of protest, and agree that the payment hereof may be extended from time to time, one or more times, without notice and without prejudice to the rights of the holders hereunder.

All parties hereto recognize that time is of the essence of this obligation and the undersigned maker hereby agrees that any sum delinquent hereunder or under any security instrument securing this obligation shall bear interest at the highest lawful rate permitted by the laws of the State of Mississippi.

The undersigned maker hereby reserves the right to prepay at any time, without penalty, all or any part of the indebtedness hereby evidenced. Any such prepayment shall not affect the principal amount then due.

This instrument is to be governed by and construed under the laws of the State of Mississippi.

Witness execution hereof on this, the 25th day of February, 1980.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 6

Walter L. Nixon, Jr.
WALTER L. NIXON, JR.

Paid in full
3/7/83
W.R. Fairchild Construction Co. Ltd
by RL Jarvis, Jr

NEGOTIABLE PROMISSORY NOTE

STATE OF MISSISSIPPI
COUNTY OF

For value received, the undersigned, WALTER L. NIXON, JR., hereby unconditionally promises to pay to the order of W. R. FAIRCHILD CONSTRUCTION CO., LTD., Post Office Box 1857, Hattiesburg, Mississippi, 39401, in lawful money of the United States of America, the principal sum of Four Thousand Five Hundred and No/100 Dollars ($4,500.00), together with simple interest on the unpaid balance thereof at the rate of ten percent (10%) per annum from and after date hereof, due and payable three (3) years from the date hereof, which due date shall be February 25, 1983.

The undersigned maker hereby agrees that upon the nonpayment at any maturity of any of the obligations or liabilities hereof, or upon the suspension, failure or insolvency, or upon any application for the adjudication of bankruptcy of any party hereto, or upon the application by or against any party hereto for a respite, assignment, or receivership, then and in any such case this note and all the obligations and liabilities hereof shall forthwith mature and become immediately due and payable, without demand or notice, anything to the contrary herein notwithstanding.

The undersigned maker hereby further agrees to pay the fees of an attorney at law who, owing to default in the payment of any sum due hereunder or in the performance of any other terms or conditions hereof, may be employed to recover the amount hereof, or any part thereof, in principal or interest, or to protect the interest of the holders hereof, or to compromise, or to take other action in regard hereto, which fees shall in no event be less than fifteen percent (15%) of the amount then owing and sought to be collected, protected or preserved.

All parties hereto severally waive presentment for payment, demand, notice of nonpayment, protest, and notice of protest, and agree that the payment hereof may be extended from time to time, one or more times, without notice and without prejudice to the rights of the holders hereunder.

PAID

All parties hereto recognize that time is of the essence of this obligation and the undersigned maker hereby agrees that any sum delinquent hereunder or under any security instrument securing this obligation shall bear interest at the highest lawful rate permitted by the laws of the State of Mississippi.

The undersigned maker hereby reserves the right to prepay at any time, without penalty, all or any part of the indebtedness hereby evidenced. Any such prepayment shall not affect the principal amount then due.

This instrument is to be governed by and construed under the laws of the State of Mississippi.

Witness execution hereof on this, the 25th day of February, 1980.

Walter L. Nixon Jr.
WALTER L. NIXON, JR.

Paid in full
3/7/83
WR Fairchild Construction Co.
by RL Jarvis Jr

NEGOTIABLE PROMISSORY NOTE

STATE OF MISSISSIPPI
COUNTY OF

For value received, the undersigned, WALTER L. NIXON, JR., hereby unconditionally promises to pay to the order of W. R. FAIRCHILD CONSTRUCTION CO., LTD., Post Office Box 1857, Hattiesburg, Mississippi, 39401, in lawful money of the United States of America, the principal sum of Two Thousand Dollars ($2,000.00), together with simple interest on the unpaid balance thereof at the rate of ten percent (10%) per annum from and after date hereof, due and payable three (3) years from the date hereof, which due date shall be February 25, 1983.

The undersigned maker hereby agrees that upon the nonpayment at any maturity of any of the obligations or liabilities hereof, or upon the suspension, failure or insolvency, or upon any application for the adjudication of bankruptcy of any party hereto, or upon the application by or against any party hereto for a respite, assignment, or receivership, then and in any such case, this note and all the obligations and liabilities hereof shall forthwith mature and become immediately due and payable, without demand or notice, anything to the contrary notwithstanding.

The undersigned maker hereby further agrees to pay the fees of an attorney at law who, owing to default in the payment of any sum due hereunder or in the performance of any other terms or conditions hereof, may be employed to recover the amount hereof, or any part thereof, in principal or interest, or to protect the interest of the holders hereof, or to compromise, or to take other action in regard hereto, which fees shall in no event be less than fifteen percent (15%) of the amount then owing and sought to be collected, protected or preserved.

PAID

All parties hereto severally waive presentment for payment, demand, notice of nonpayment, protest, and notice of protest, and agree that the payment hereof may be extended from time to time, one or more times, without notice and without prejudice to the rights of the holders hereunder.

All parties hereto recognize that time is of the essence of this obligation and the undersigned maker hereby agrees that any sum delinquent hereunder or under any security instrument securing this obligation shall bear interest at the highest lawful rate permitted by the laws of the State of Mississippi.

The undersigned maker hereby reserves the right to prepay at any time, without penalty, all or any part of the indebtedness hereby evidenced. Any such prepayment shall not affect the principal amount then due.

This instrument is to be governed by and construed under the laws of the State of Mississippi.

Witness execution hereof on this, the 25th day of February, 1980.

Walter L. Nixon Jr.
WALTER L. NIXON, JR.

Paid in full
9/16/82
W.R. Fairchild Construction Co
by RL Jarvis

Date	Royalty Payments to Judge Nixon	Sub-Total of Royalties	Nixon Note Payments
2/18/82	$ 464.25		$1,000.00
2/19/82	5,941.01		2,500.00
3/3/82	1,071.29	$ 7,476.55	1,500.00
3/16/82			5,000.00
3/26/82	1,103.88		
4/6/82	1.12		
4/29/82	971.84		
5/24/82	1,060.70		
6/10/82	143.51		
6/28/82	974.69		
7/23/82	1,028.70		
8/24/82	1,061.61		1,271.43
9/9/82	10,093.40		2,098.11
9/15/82	11.92	16,451.37	1,407.15
9/16/82			4,776.69
9/29/82	2,216.55		
10/25/82	1,536.34		
11/29/82	1,740.68		
12/30/82	1,631.26		
1/4/8(3)	5.50		
1/28/83	1,113.79		
2/14/83	372.65		522.19
2/28/83	1,316.22	9,932.99	522.19
3/1/83			1,044.38
3/28/83	1,736.78		
4/22/83	1,327.38		
5/9/83	3.69		
5/23/83	1,238.20		
6/23/83	1,449.87		
7/13/83	4.27		
7/25/83	938.02		
8/26/83	878.90		
9/26/83	925.20		
11/11/83	595.05		
11/30/83	572.49		
12/13/83	156.37		
12/28/83	813.70		
1/27/84	891.61		
2/10/84	89.81		
2/29/84	783.82		
3/30/84	532.26		
4/18/84	5.48		
4/27/84	564.88		
5/24/84	726.21		
7/5/84	428.56		
7/27/84	928.34		
7/30/84	975.18	16,566.07	

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 7

Date	Royalty Payments to Judge Nixon	Sub-Total of Royalties	Nixon Note Payments
8/20/84			951.10
8/29/84	927.13		
9/28/84	849.45		
10/4/84	7.92		
10/23/84	705.20		
11/28/84	964.76		
12/31/84	2.29		
12/31/84	1,056.75		
1/28/85	1,079.37		
2/12/85	177.43		
3/1/85	1,053.16		
3/22/85	991.00		
4/15/85	3.25		
4/22/85	963.74		
5/23/85	246.51		
5/23/85	122.36		
5/24/85	896.55		
7/2/85	299.19		
7/24/85	712.14		
8/22/85	581.05		
8/26/85	5.65	11,644.90	
	Grand total	$62,071.88	$11,772.17
		- 11,772.17	
	Net profit	$50,299.71	

te	Royalty Payments to Judge Nixon	Sub-Total of Royalties	Nixon Note Payments
/82	$ 464.25		$1,000.00
/82	5,941.01		2,500.00
82	1,071.29	$ 7,476.55	1,500.00
/82			5,000.00
/82	1,103.88		
82	1.12		
/82	971.84		
/82	1,060.70		
/82	143.51		
/82	974.69		
/82	1,028.70		
/82	1,061.61		1,271.43
/82	10,093.40		2,098.11
/82	11.92	16,451.37	1,407.15
/82			4,776.69
/82	2,216.55		
5/82	1,536.34		
9/82	1,740.68		
0/82	1,631.26		
(3)	5.50		
/83	1,113.79		
/83	372.65		522.19
/83	1,316.22	9,932.99	522.19
83			1,044.38
/83	1,736.78		
/83	1,327.38		
83	3.69		
/83	1,238.20		
/83	1,449.87		
/83	4.27		
/83	938.02		
/83	878.90		
/83	925.20		
1/83	595.05		
0/83	572.49		
/83	156.37		
/83	813.70		
/84	891.61		
/84	89.81		
/84	783.82		
/84	532.26		
/84	5.48		
/84	564.88		
/84	726.21		
	428.56		
/84	928.34		
/84	975.18	16,566.07	

NIXON NOTES (PAYMENTS)

Date	$2,000.00 Note	$4,500.00 Note	$3,000.00 Note
3/16/82	$1,000.00	$2,500.00	$1,500.00
9/16/82	1,271.43 (pd in full)	2,098.11	1,407.15
	$2,271.43		
3/1/83		522.19 (pd in full)	522.19 (pd in full)
		$5,120.30	$3,429.34
8/20/84		$951.10	

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Hattiesburg Division

UNITED STATES OF AMERICA)
)
v.) Crim. No. 85-00012(L)
)
WALTER L. NIXON,)
)
Defendant.)

STIPULATION NO. 4

It is hereby stipulated and agreed between the parties that the three-page list of royalty checks received and note payments made by the Defendant, Walter L. Nixon, Jr., offered as Government's Exhibit 26, truly and accurately lists and computes the totals of the royalty checks included in Government's Exhibits 18 and 19, and truly and accurately lists and computes the totals of the note payment checks included in Defendant's Exhibit 19.

Stipulated and agreed to this 3rd day of February, 1986.

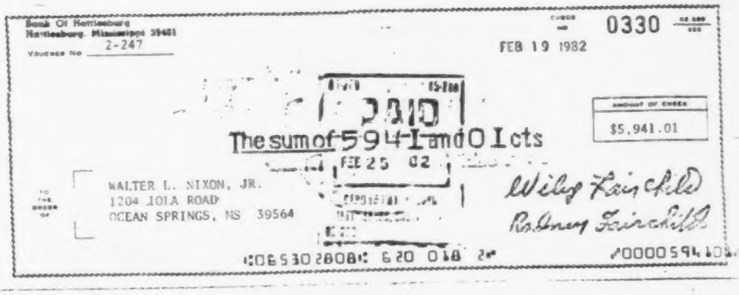
REID H. WEINGARTEN
Attorney for the United States

M S. Fawer
MICHAEL S. FAWER
Attorney for the Defendant

JAN NIELSEN LITTLE
Attorney for the United States

HERBERT LARSON
Attorney for the Defendant

Walter L. Nixon Jr.
WALTER L. NIXON, JR.
Defendant



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 2-247

Check No 0330

FEB 19 1982

The sum of 5941 and 01 cts

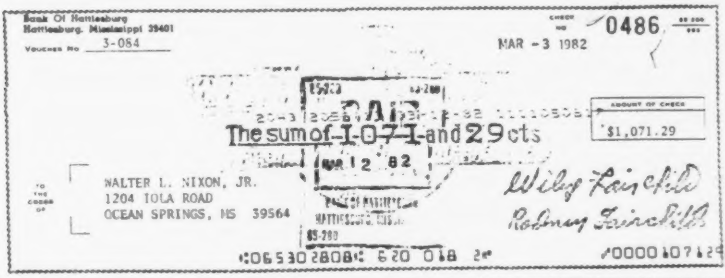
Amount of Check $5,941.01

PAID
FEB 25 82

To the order of
WALTER L. NIXON, JR.
1204 IOLA ROAD
OCEAN SPRINGS, MS 39564

Wiley Fairchild
Rodney Fairchild

:065302808: 620 018 2 /0000594101/



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 3-084

Check No 0486

MAR -3 1982

The sum of 1071 and 29 cts

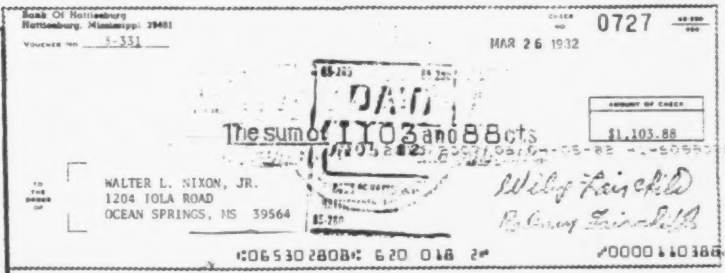
Amount of Check $1,071.29

PAID
MAR 12 82

To the order of
WALTER L. NIXON, JR.
1204 IOLA ROAD
OCEAN SPRINGS, MS 39564

Wiley Fairchild
Rodney Fairchild

:065302808: 620 018 2 /0000107129/



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 3-331

Check No 0727

MAR 26 1982

The sum of 1103 and 88 cts

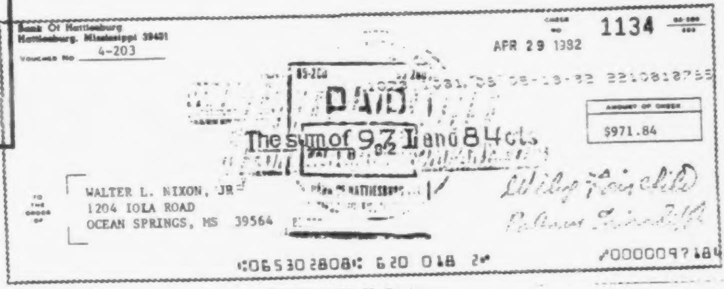
Amount of Check $1,103.88

PAID

To the order of
WALTER L. NIXON, JR.
1204 IOLA ROAD
OCEAN SPRINGS, MS 39564

Wiley Fairchild
Rodney Fairchild

:065302808: 620 018 2 /0000110388/



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 4-203

Check No 1134

APR 29 1982

The sum of 971 and 84 cts

Amount of Check $971.84

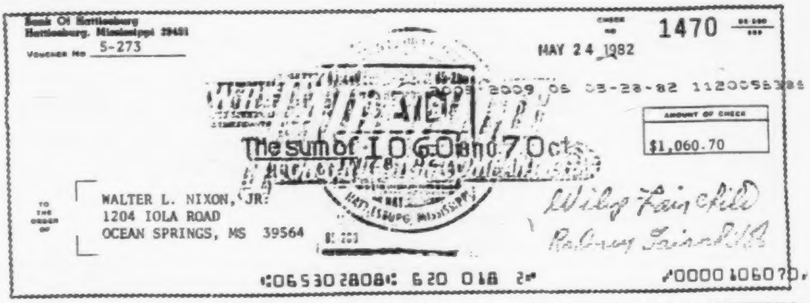
PAID

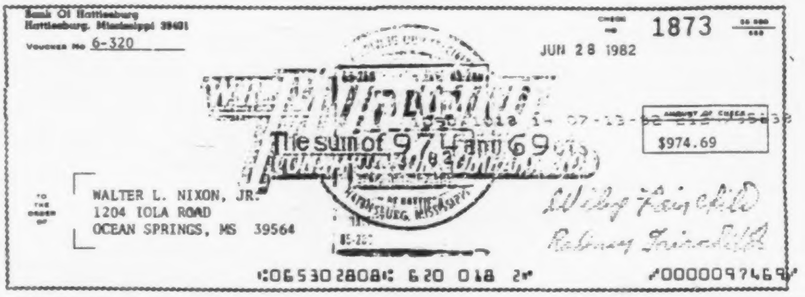
To the order of
WALTER L. NIXON, JR.
1204 IOLA ROAD
OCEAN SPRINGS, MS 39564

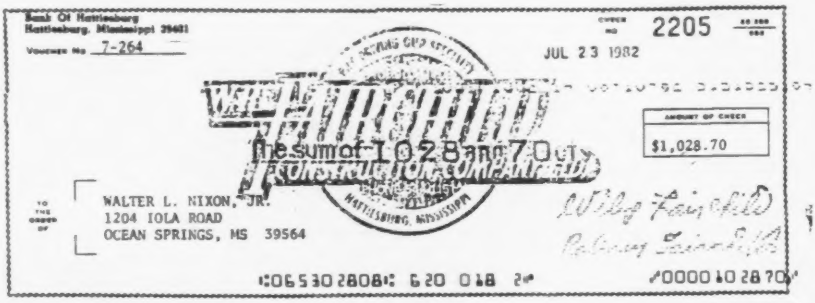
Wiley Fairchild
Rodney Fairchild

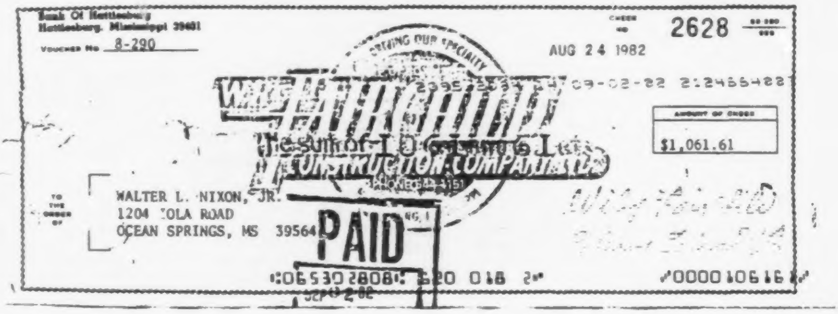
:065302808: 620 018 2 /0000097184/

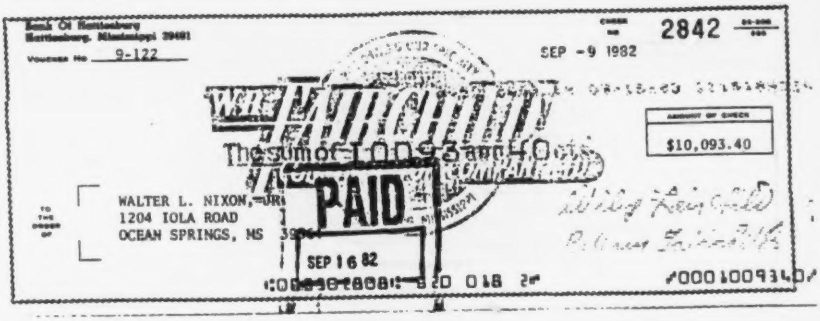
United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 8


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 5-273
Check No 1470
MAY 24 1982
The sum of 1060 and 70 cts
AMOUNT OF CHECK $1,060.70
To the order of
WALTER L. NIXON, JR.
1204 IOLA ROAD
OCEAN SPRINGS, MS 39564
Wiley Fairchild
Rodney Fairchild
⑆065302808⑆ 620 018 2⑈ ⑈0000106070⑈


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 6-320
Check No 1873
JUN 28 1982
The sum of 974 and 69 cts
AMOUNT OF CHECK $974.69
To the order of
WALTER L. NIXON, JR.
1204 IOLA ROAD
OCEAN SPRINGS, MS 39564
Wiley Fairchild
Rodney Fairchild
⑆065302808⑆ 620 018 2⑈ ⑈0000097469⑈


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 7-264
Check No 2205
JUL 23 1982
FAIRCHILD
The sum of 1028 and 70 cts
CONSTRUCTION COMPANY
HATTIESBURG, MISSISSIPPI
AMOUNT OF CHECK $1,028.70
To the order of
WALTER L. NIXON, JR.
1204 IOLA ROAD
OCEAN SPRINGS, MS 39564
Wiley Fairchild
Rodney Fairchild
⑆065302808⑆ 620 018 2⑈ ⑈0000102870⑈


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 8-290
Check No 2628
AUG 24 1982
FAIRCHILD
The sum of 10[illegible] 61 cts
CONSTRUCTION COMPANY
09-02-82 212465428
AMOUNT OF CHECK $1,061.61
To the order of
WALTER L. NIXON, JR.
1204 IOLA ROAD
OCEAN SPRINGS, MS 39564
PAID
SEP 2 82
⑆065302808⑆ 620 018 2⑈ ⑈0000106161⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 9-122

CHECK NO 2842

SEP -9 1982

W.R. FAIRCHILD

The sum of 10093 and 40 cts

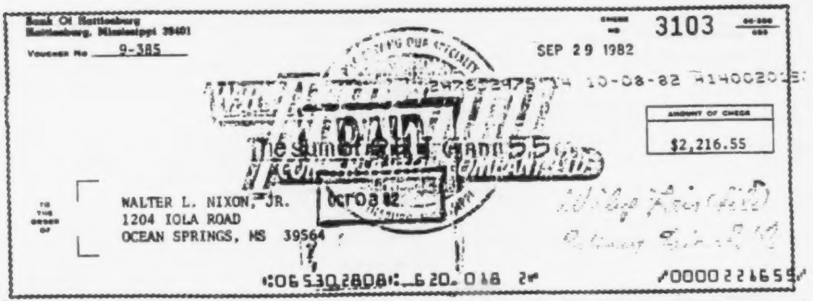
AMOUNT OF CHECK
$10,093.40

TO THE ORDER OF
WALTER L. NIXON, JR.
1204 IOLA ROAD
OCEAN SPRINGS, MS 39564

PAID
SEP 16 82

Wiley Fairchild
Rodney Fairchild

⑆06530280⑆ 620 018 2⑈ ⑈0001009340⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 9-385

CHECK NO 3103

SEP 29 1982

10-08-82

The sum of [illegible] and 55 cts

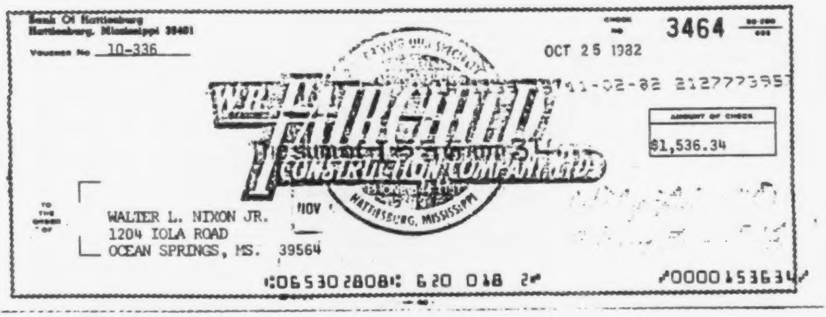
AMOUNT OF CHECK
$2,216.55

TO THE ORDER OF
WALTER L. NIXON, JR.
1204 IOLA ROAD
OCEAN SPRINGS, MS 39564

PAID
OCT 08 82

Wiley Fairchild
Rodney Fairchild

⑆06530280⑆ 620 018 2⑈ ⑈0000221655⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 10-336

CHECK NO 3464

OCT 25 1982

11-02-82 212777395

W.R. FAIRCHILD
CONSTRUCTION COMPANY

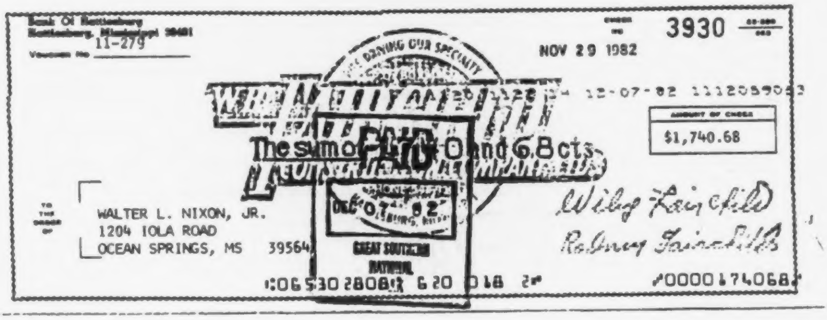
The sum of 1536 and 3[illegible]

AMOUNT OF CHECK
$1,536.34

TO THE ORDER OF
WALTER L. NIXON JR.
1204 IOLA ROAD
OCEAN SPRINGS, MS. 39564

NOV

⑆06530280⑆ 620 018 2⑈ ⑈0000153634⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 11-279

CHECK NO 3930

NOV 29 1982

12-07-82 1112059053

The sum of [illegible]0 and 68 cts

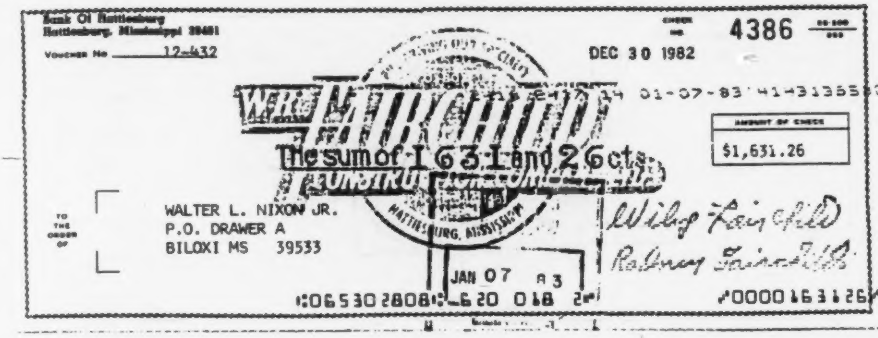
AMOUNT OF CHECK
$1,740.68

TO THE ORDER OF
WALTER L. NIXON, JR.
1204 IOLA ROAD
OCEAN SPRINGS, MS 39564

PAID
DEC 07 82
GREAT SOUTHERN
NATIONAL

Wiley Fairchild
Rodney Fairchild

⑆06530280⑆ 620 018 2⑈ ⑈0000174068⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 12-432

Check No 4386

DEC 30 1982

01-07-83 414313555

The sum of 1631 and 26 cts

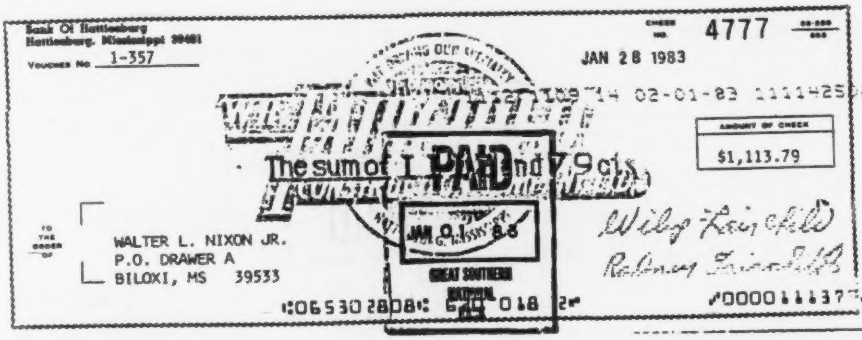
Amount of Check
$1,631.26

To the order of
WALTER L. NIXON JR.
P.O. DRAWER A
BILOXI MS 39533

JAN 07 83

Wiley Fairchild
Rodney Fairchild

⑆06530 2808⑆ 620 018 2⑈ ⑈0000163126⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 1-357

Check No 4777

JAN 28 1983

02-01-83 11114250

The sum of 1 PAID nd 79 cts

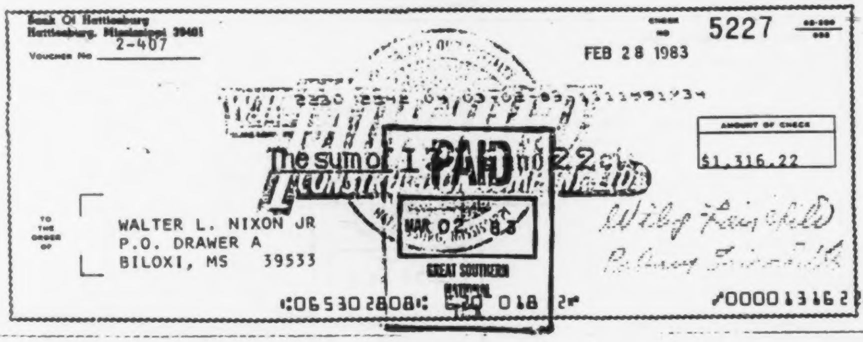
Amount of Check
$1,113.79

To the order of
WALTER L. NIXON JR.
P.O. DRAWER A
BILOXI, MS 39533

JAN 01 83
GREAT SOUTHERN NATIONAL

Wiley Fairchild
Rodney Fairchild

⑆06530 2808⑆ 620 018 2⑈ ⑈000011137⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 2-407

Check No 5227

FEB 28 1983

The sum of 1 PAID nd 22 cts

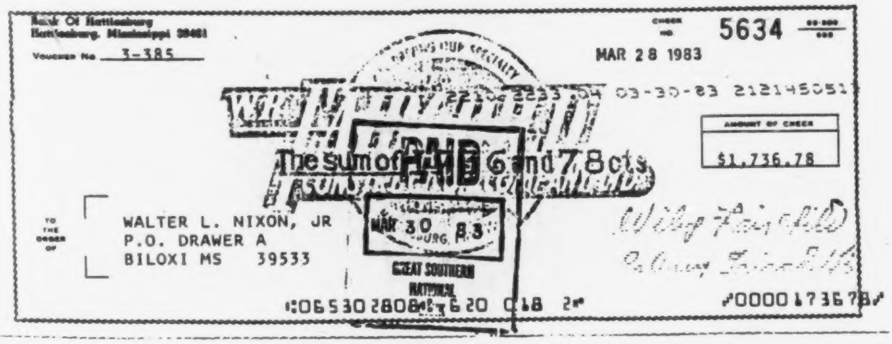
Amount of Check
$1,316.22

To the order of
WALTER L. NIXON JR
P.O. DRAWER A
BILOXI, MS 39533

MAR 02 83
GREAT SOUTHERN NATIONAL

Wiley Fairchild
Rodney Fairchild

⑆06530 2808⑆ 620 018 2⑈ ⑈0000131622⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 3-385

Check No 5634

MAR 28 1983

03-30-83 212145051

The sum of PAID 6 and 78 cts

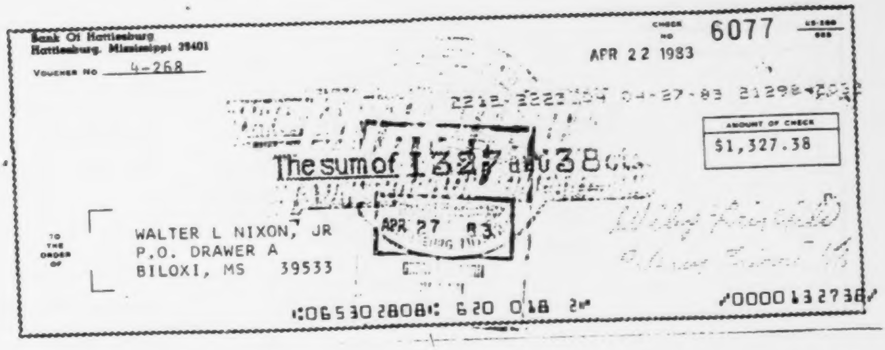
Amount of Check
$1,736.78

To the order of
WALTER L. NIXON, JR
P.O. DRAWER A
BILOXI MS 39533

MAR 30 83
GREAT SOUTHERN NATIONAL

Wiley Fairchild
Rodney Fairchild

⑆06530 2808⑆ 620 018 2⑈ ⑈0000173678⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 4-268

CHECK NO 6077

APR 22 1983

2212 2222 04 04-27-83 21298

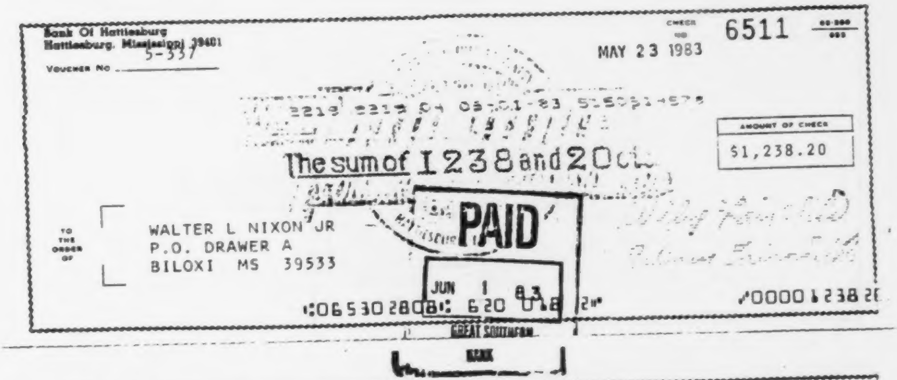
AMOUNT OF CHECK $1,327.38

The sum of 1327 and 38 cts

TO THE ORDER OF
WALTER L NIXON, JR
P.O. DRAWER A
BILOXI, MS 39533

APR 27 83

⑆065302808⑆ 620 018 2⑈ ⑈0000132738⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 5-337

CHECK NO 6511

MAY 23 1983

2219 2219 04 06-01-83

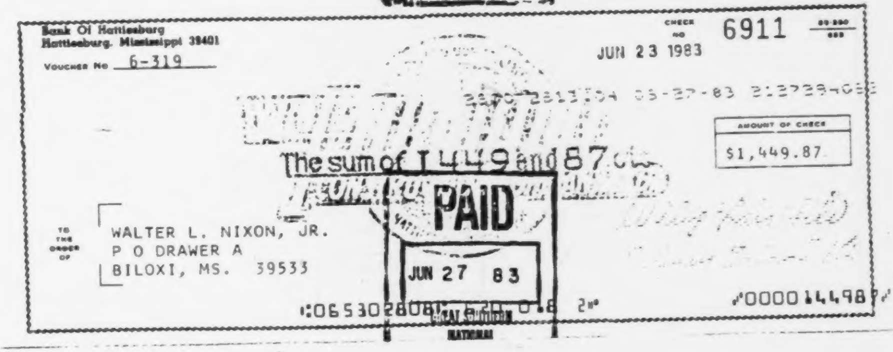
AMOUNT OF CHECK $1,238.20

The sum of 1238 and 20 cts

TO THE ORDER OF
WALTER L NIXON JR
P.O. DRAWER A
BILOXI MS 39533

PAID
JUN 1 83
GREAT SOUTHERN
BANK

⑆065302808⑆ 620 018 2⑈ ⑈0000123820



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 6-319

CHECK NO 6911

JUN 23 1983

2213 04 06-27-83

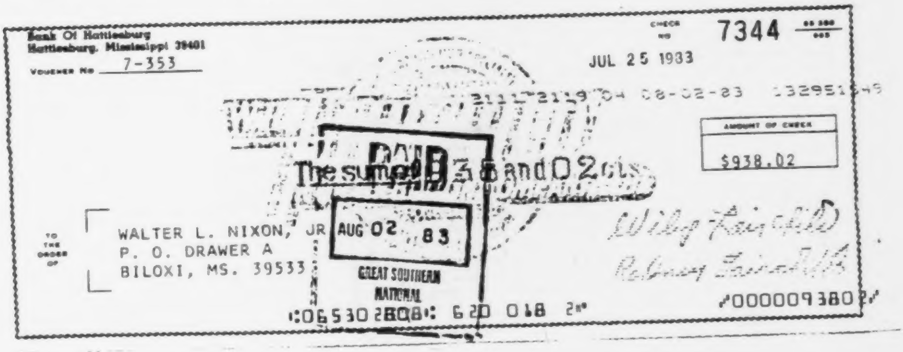
AMOUNT OF CHECK $1,449.87

The sum of 1449 and 87 cts

TO THE ORDER OF
WALTER L. NIXON, JR.
P O DRAWER A
BILOXI, MS. 39533

PAID
JUN 27 83
GREAT SOUTHERN
NATIONAL

⑆065302808⑆ 620 018 2⑈ ⑈0000144987⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 7-353

CHECK NO 7344

JUL 25 1983

2111 2119 04 08-02-83

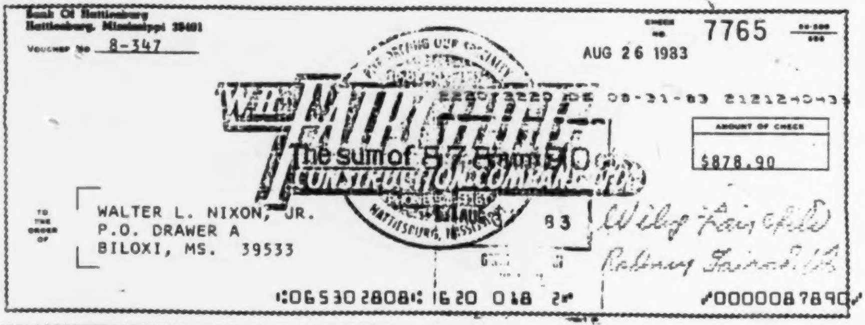
AMOUNT OF CHECK $938.02

The sum of 938 and 02 cts

TO THE ORDER OF
WALTER L. NIXON, JR
P. O. DRAWER A
BILOXI, MS. 39533

PAID
AUG 02 83
GREAT SOUTHERN
NATIONAL

⑆065302808⑆ 620 018 2⑈ ⑈0000093802⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 8-347

Check No 7765
AUG 26 1983

2220 2220 06 08-31-83 212124043

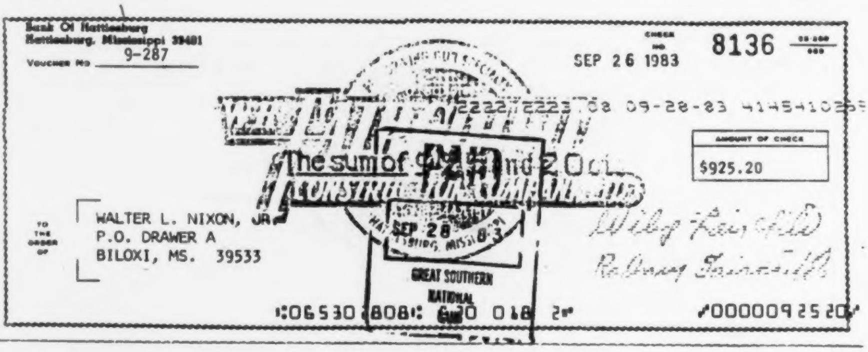
AMOUNT OF CHECK
$878.90

The sum of 8 7 8 and 90 cts

To the order of
WALTER L. NIXON, JR.
P.O. DRAWER A
BILOXI, MS. 39533

Wiley Fairchild
Rodney Fairchild

⑆06530 2808⑆ 1620 018 2⑈ ⑈0000087890⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 9-287

Check No 8136
SEP 26 1983

2222 2223 08 09-28-83 414541035

AMOUNT OF CHECK
$925.20

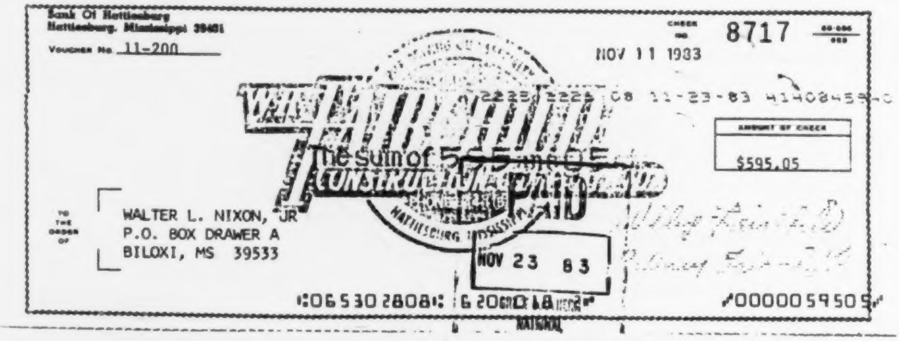
The sum of and 20 cts

PAID
SEP 28 83
GREAT SOUTHERN NATIONAL

To the order of
WALTER L. NIXON, JR.
P.O. DRAWER A
BILOXI, MS. 39533

Wiley Fairchild
Rodney Fairchild

⑆06530 2808⑆ 620 018 2⑈ ⑈0000092520⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No. 11-200

Check No 8717
NOV 11 1983

2223 2223 08 11-23-83 414084540

AMOUNT OF CHECK
$595.05

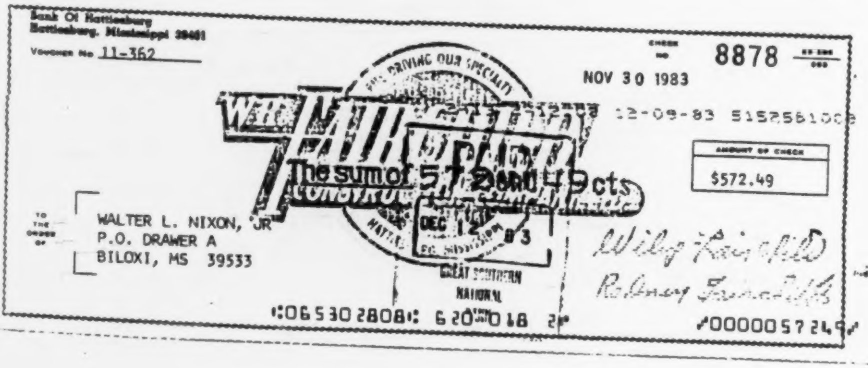
The sum of 5 9 5 and 05 cts

PAID
NOV 23 83
NATIONAL

To the order of
WALTER L. NIXON, JR
P.O. BOX DRAWER A
BILOXI, MS 39533

Wiley Fairchild
Rodney Fairchild

⑆06530 2808⑆ 620 018 2⑈ ⑈0000059505⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No. 11-362

Check No 8878
NOV 30 1983

12-09-83 515258100

AMOUNT OF CHECK
$572.49

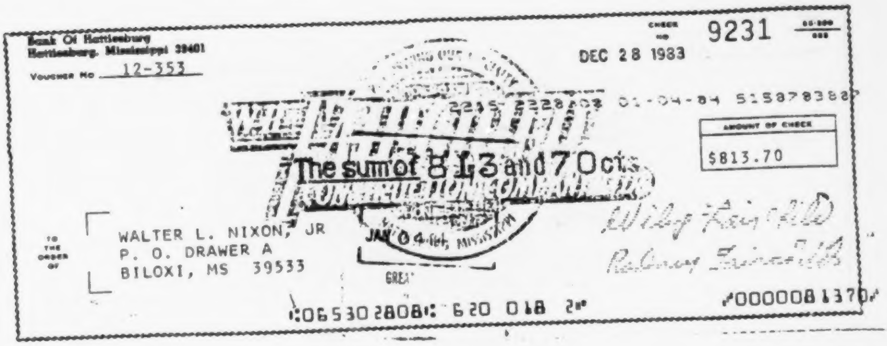
The sum of 5 7 2 and 4 9 cts

PAID
DEC 12 83
GREAT SOUTHERN NATIONAL

To the order of
WALTER L. NIXON, JR
P.O. DRAWER A
BILOXI, MS 39533

Wiley Fairchild
Rodney Fairchild

⑆06530 2808⑆ 620 018 2⑈ ⑈0000057249⑈


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 12-353

Check No 9231

DEC 28 1983

2215 2228 08 01-04-84 515878388

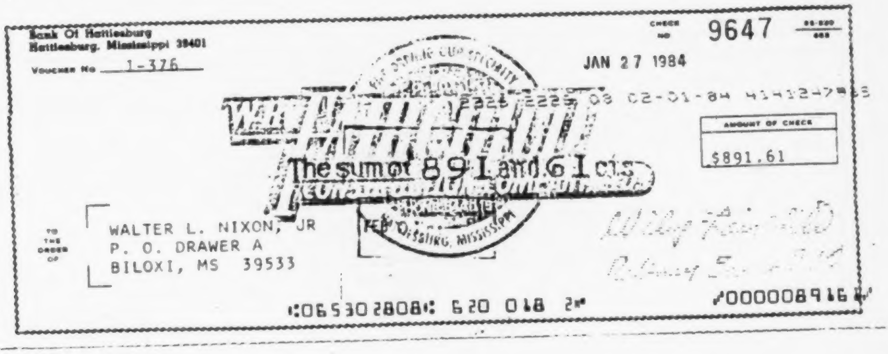
The sum of 813 and 70 cts

Amount of Check
$813.70

To the order of
WALTER L. NIXON, JR
P. O. DRAWER A
BILOXI, MS 39533

JAN 04 84

:065302808: 620 018 2" 0000081370


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 1-376

Check No 9647

JAN 27 1984

2225 2225 08 02-01-84 414124745

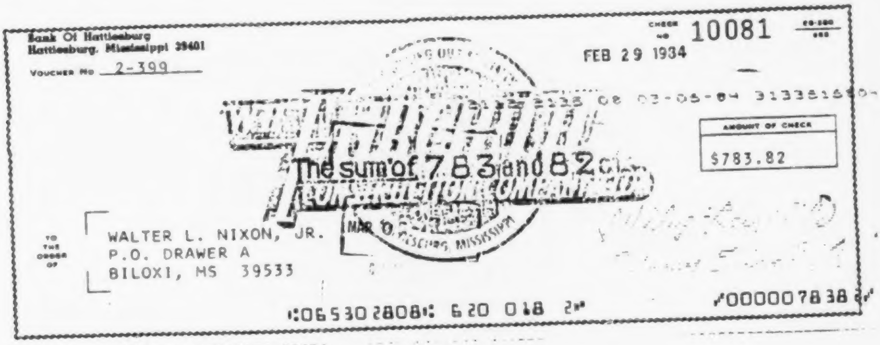
The sum of 891 and 61 cts

Amount of Check
$891.61

To the order of
WALTER L. NIXON, JR
P. O. DRAWER A
BILOXI, MS 39533

FEB 0

:065302808: 620 018 2" 0000089161


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 2-399

Check No 10081

FEB 29 1984

2225 08 03-05-84 31338150

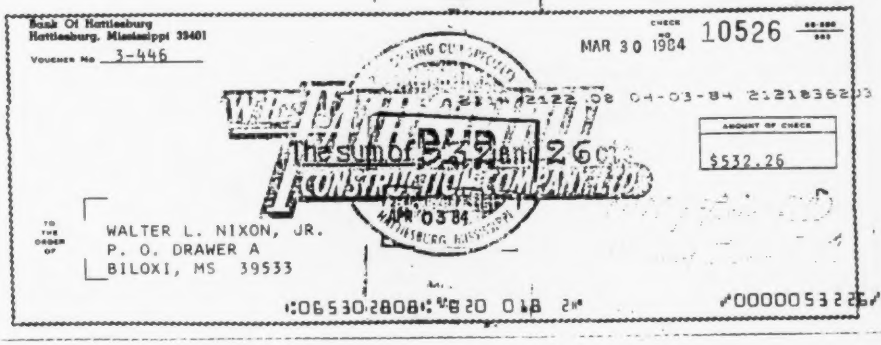
The sum of 783 and 82 cts

Amount of Check
$783.82

To the order of
WALTER L. NIXON, JR.
P.O. DRAWER A
BILOXI, MS 39533

MAR 0

:065302808: 620 018 2" 0000078382


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 3-446

Check No 10526

MAR 30 1984

2122 08 04-03-84 212183620

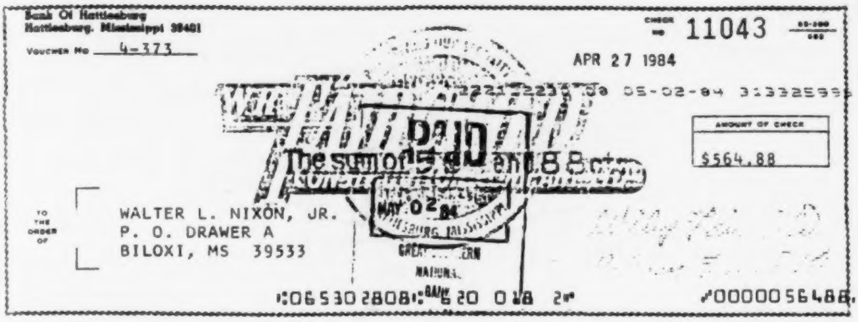
The sum of 532 and 26 cts

Amount of Check
$532.26

To the order of
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

APR 03 84

:065302808: 620 018 2" 0000053226



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401

Voucher No 4-373

CHECK NO 11043

APR 27 1984

PAID

The sum of 5[illegible] and 88 cts

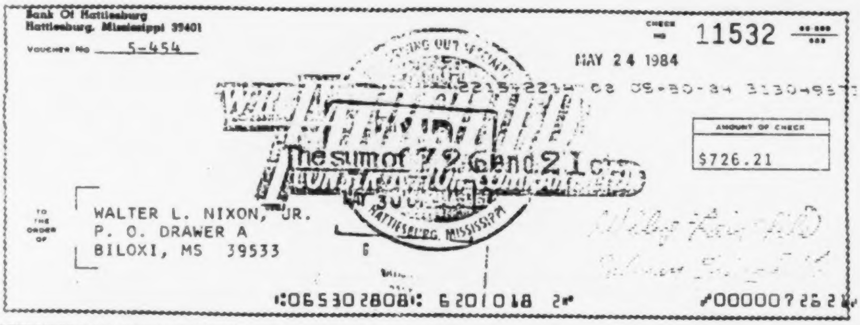
MAY 02 84

05-02-84

AMOUNT OF CHECK $564.88

TO THE ORDER OF
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

⑆0653028080⑆ 620 018 2⑈ ⑈0000056488⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401

Voucher No 5-454

CHECK NO 11532

MAY 24 1984

05-30-84

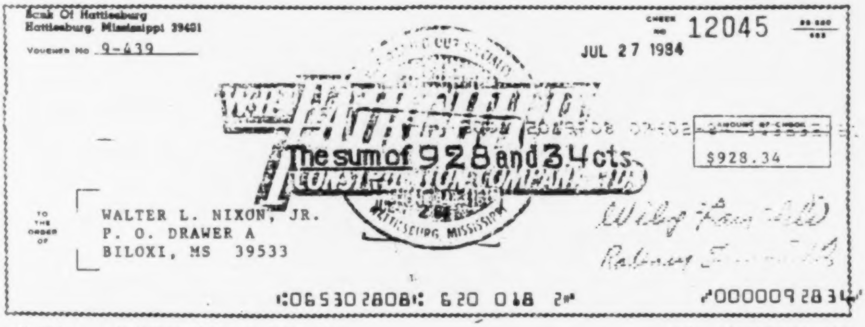
AMOUNT OF CHECK $726.21

The sum of 72[illegible] and 21 cts

HATTIESBURG, MISSISSIPPI

TO THE ORDER OF
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

⑆0653028080⑆ 6201018 2⑈ ⑈0000072621⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401

Voucher No 9-439

CHECK NO 12045

JUL 27 1984

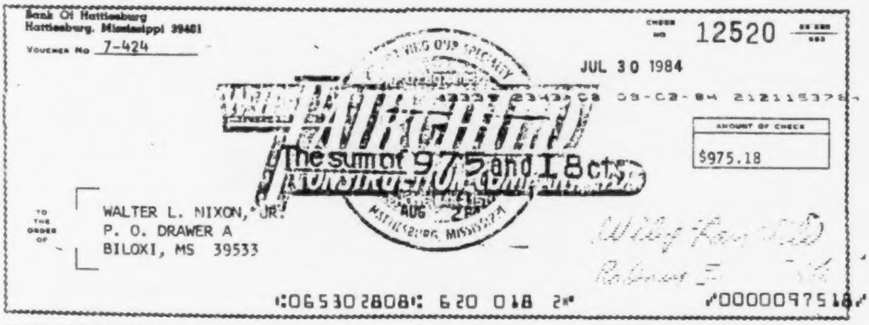
AMOUNT OF CHECK $928.34

The sum of 928 and 34 cts

HATTIESBURG, MISSISSIPPI

TO THE ORDER OF
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

⑆0653028080⑆ 620 018 2⑈ ⑈0000092834⑈



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401

Voucher No 7-424

CHECK NO 12520

JUL 30 1984

08-02-84

AMOUNT OF CHECK $975.18

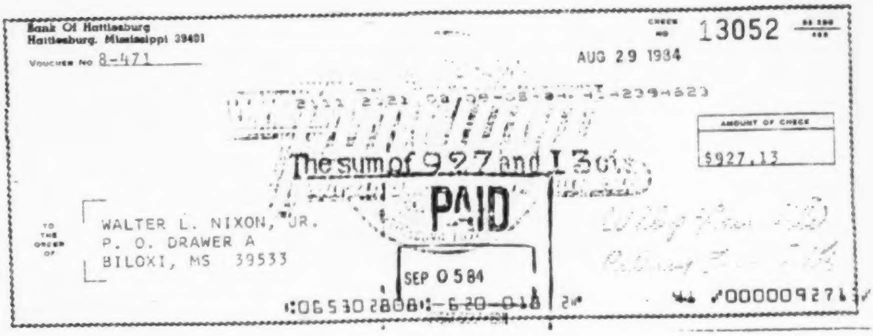
The sum of 975 and 18 cts

AUG 2 84

HATTIESBURG, MISSISSIPPI

TO THE ORDER OF
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

⑆0653028080⑆ 620 018 2⑈ ⑈0000097518⑈


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 8-471

CHECK NO 13052

AUG 29 1984

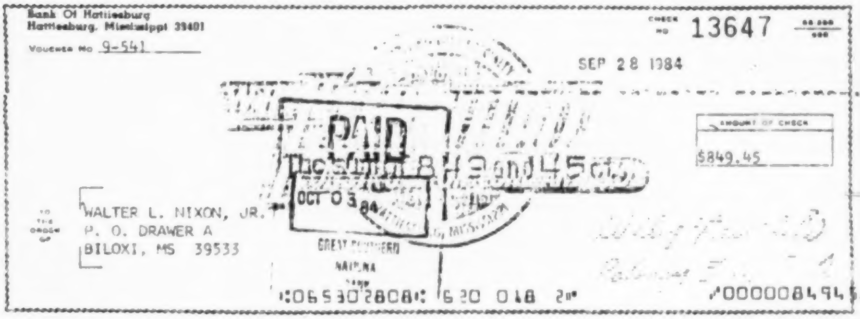
The sum of 927 and 13 cts

AMOUNT OF CHECK
$927.13

TO THE ORDER OF
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

PAID
SEP 05 84

⑆065302808⑆ 620 018 2⑈ ⑈0000092713⑈


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 9-541

CHECK NO 13647

SEP 28 1984

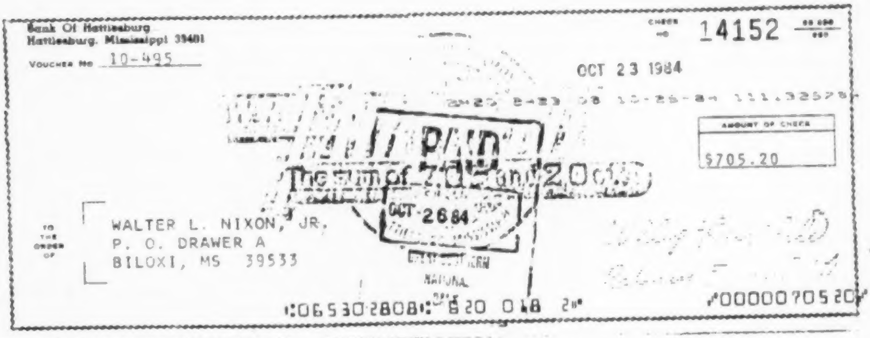
The sum of 849 and 45 cts

AMOUNT OF CHECK
$849.45

TO THE ORDER OF
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

PAID
OCT 03 84
GREAT SOUTHERN NATIONAL BANK

⑆065302808⑆ 620 018 2⑈ ⑈0000084945⑈


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 10-495

CHECK NO 14152

OCT 23 1984

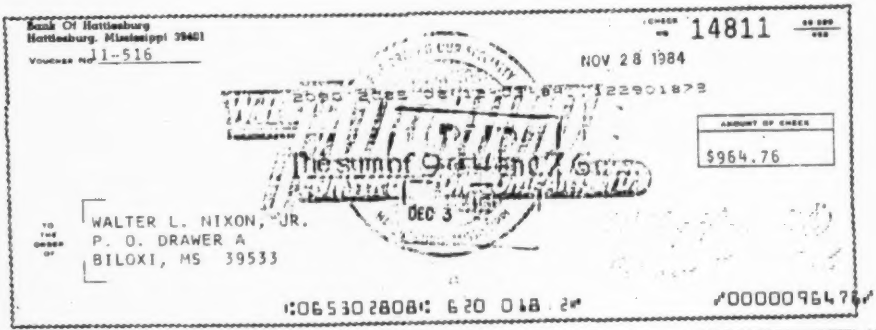
The sum of 705 and 20 cts

AMOUNT OF CHECK
$705.20

TO THE ORDER OF
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

PAID
OCT 26 84
GREAT SOUTHERN NATIONAL BANK

⑆065302808⑆ 620 018 2⑈ ⑈0000070520⑈


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 11-516

CHECK NO 14811

NOV 28 1984

The sum of 964 and 76 cts

AMOUNT OF CHECK
$964.76

TO THE ORDER OF
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

PAID
DEC 3

⑆065302808⑆ 620 018 2⑈ ⑈0000096476⑈

Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 12-504

Check No 15375

DEC 31 1984

01-03-85

The sum of 1056 dols 75 cts

W.R. FAIRCHILD CONSTRUCTION COMPANY
HATTIESBURG, MISSISSIPPI

Amount of Check
$1,056.75

To the order of
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

Wiley Fairchild
Rodney Fairchild

⑆065302808⑆ 620 018 2⑈ ⑈0000105675⑈

Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 1-471

Check No 15853

JAN 28 1985

W.R. FAIRCHILD CONSTRUCTION $1,079 dols 37 cts

HATTIESBURG, MISSISSIPPI

Amount of Check
$1,079.37

To the order of
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

Wiley Fairchild
Rodney Fairchild

⑆065302808⑆ 620 018 ⑈0000107937⑈

Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 3-024

Check No 16461

MAR 1 1985

W.R. FAIRCHILD CONSTRUCTION $1,053 dols 16 cts

PAID
MAR 05 85

Amount of Check
$1,053.16

To the order of
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

Wiley Fairchild
Rodney Fairchild

⑆065302808⑆ 620 018 2⑈ ⑈0000105316⑈

Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
Voucher No 3-507

Check No 436

MAR 1985

W.R. FAIRCHILD CONSTRUCTION $991 dols 00 cts

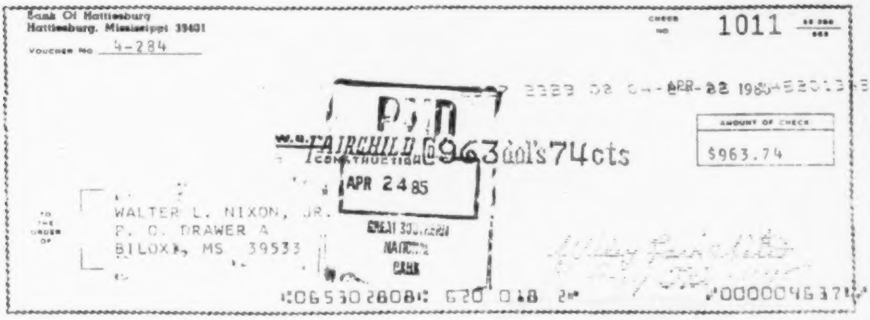
PAID
26 85
GREAT SOUTHERN
NATIONAL
BANK

Amount of Check
$991.00

To the order of
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

Wiley Fairchild
Rodney Fairchild

⑆065302808⑆ 620 018 2⑈ ⑈0000099100⑈


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 4-284

CHECK NO 1011

APR 22 1985

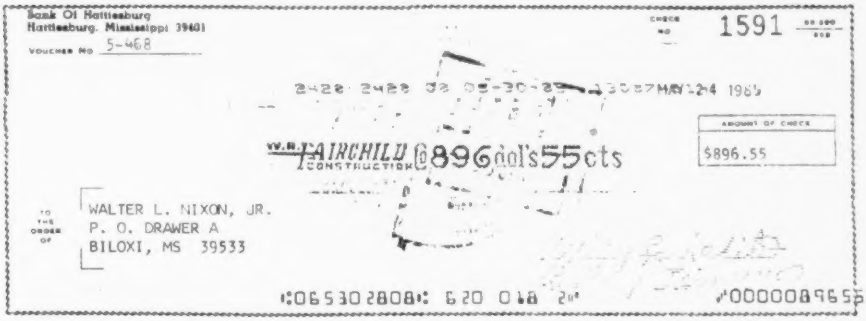
AMOUNT OF CHECK $963.74

W.R. FAIRCHILD CONSTRUCTION $963dols74cts

TO THE ORDER OF
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

PAID
APR 24 85
GREAT SOUTHERN
NATIONAL
BANK

⑆065302808⑆ 620 018 2⑈ 000009637


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 5-468

CHECK NO 1591

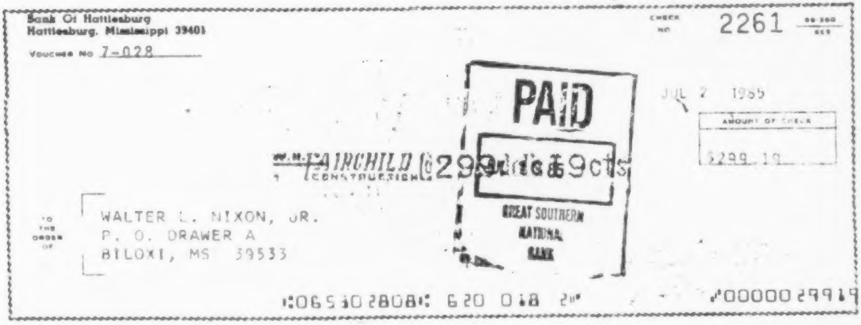
MAY 24 1985

AMOUNT OF CHECK $896.55

W.R. FAIRCHILD CONSTRUCTION $896dols55cts

TO THE ORDER OF
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

⑆065302808⑆ 620 018 2⑈ 0000089655


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 7-028

CHECK NO 2261

JUL 2 1985

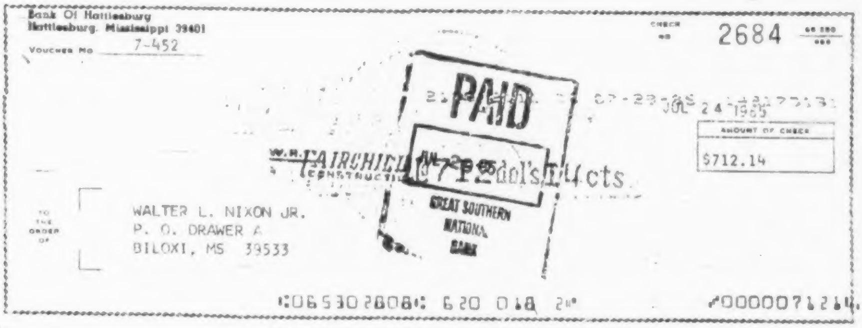
AMOUNT OF CHECK $299.19

W.R. FAIRCHILD CONSTRUCTION $299dols19cts

TO THE ORDER OF
WALTER L. NIXON, JR.
P. O. DRAWER A
BILOXI, MS 39533

PAID
GREAT SOUTHERN
NATIONAL
BANK

⑆065302808⑆ 620 018 2⑈ 0000029919


Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 7-452

CHECK NO 2684

JUL 24 1985

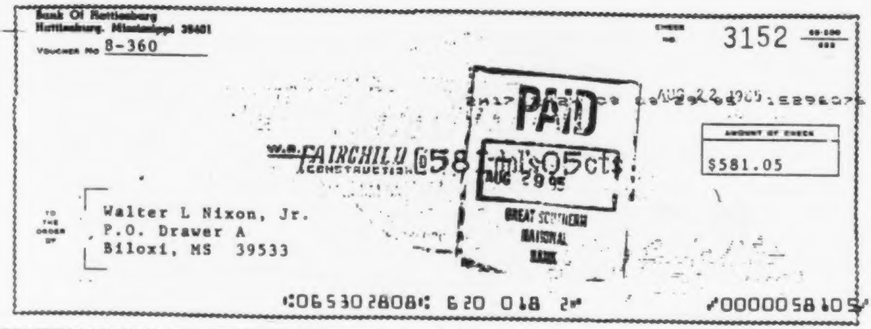
AMOUNT OF CHECK $712.14

W.R. FAIRCHILD CONSTRUCTION $712dols14cts

TO THE ORDER OF
WALTER L. NIXON JR.
P. O. DRAWER A
BILOXI, MS 39533

PAID
JUL 29 85
GREAT SOUTHERN
NATIONAL
BANK

⑆065302808⑆ 620 018 2⑈ 0000071214



Bank Of Hattiesburg
Hattiesburg, Mississippi 39401
VOUCHER NO 8-360

CHECK NO 3152

AUG 22 1985

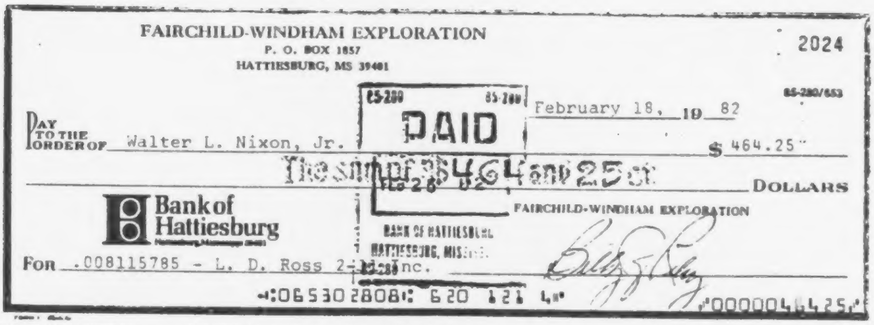
W.R. FAIRCHILD CONSTRUCTION 581 dol's 05 cts

AMOUNT OF CHECK
$581.05

PAID
AUG 29 85
GREAT SOUTHERN NATIONAL BANK

TO THE ORDER OF
Walter L Nixon, Jr.
P.O. Drawer A
Biloxi, MS 39533

⑆065302808⑆ 620 018 2⑈ ⑈0000058105⑈



FAIRCHILD-WINDHAM EXPLORATION
P. O. BOX 1857
HATTIESBURG, MS 39401

2024

85-280/653

85-280 PAID 85-280
FEB 26 82
BANK OF HATTIESBURG
HATTIESBURG, MISS.

February 18, 19 82

PAY TO THE ORDER OF Walter L. Nixon, Jr. $ 464.25

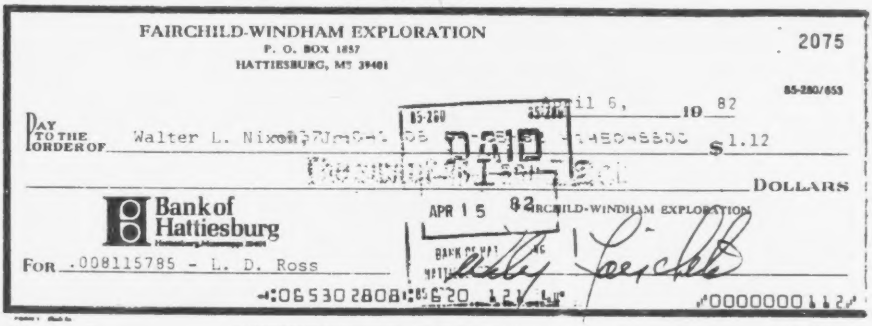
The sum of $464 and 25 ct. DOLLARS

Bank of Hattiesburg

FAIRCHILD-WINDHAM EXPLORATION

FOR .008115785 - L. D. Ross 2-[illegible] Inc.

⑆065302808⑆ 620 121 4⑈ ⑈0000046425⑈



FAIRCHILD-WINDHAM EXPLORATION
P. O. BOX 1857
HATTIESBURG, MS 39401

2075

85-280/653

85-280 PAID 85-280
APR 15 82
BANK OF HAT[illegible]

April 6, 19 82

PAY TO THE ORDER OF Walter L. Nixon, Jr. $ 1.12

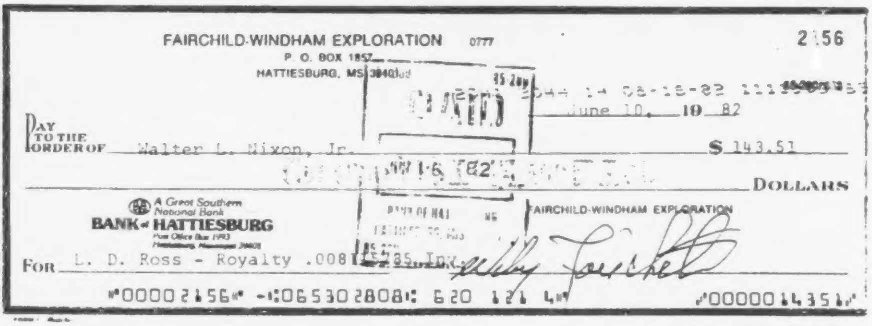
[illegible] DOLLARS

Bank of Hattiesburg

FAIRCHILD-WINDHAM EXPLORATION

FOR .008115785 - L. D. Ross

⑆065302808⑆ 620 121 4⑈ ⑈0000000112⑈



FAIRCHILD-WINDHAM EXPLORATION 0777
P. O. BOX 1857
HATTIESBURG, MS 39401

2156

85-280/653

85-280 PAID
JUN 16 '82
BANK OF HAT[illegible] MS

2044 14 06-16-82 [illegible]

June 10, 19 82

PAY TO THE ORDER OF Walter L. Nixon, Jr. $ 143.51

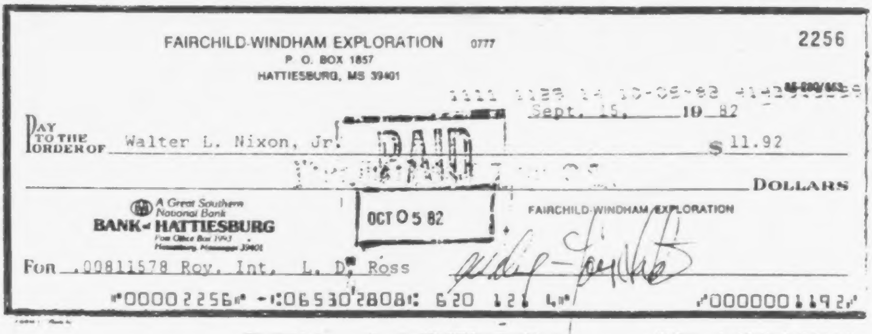
[illegible] DOLLARS

A Great Southern National Bank
BANK of HATTIESBURG
Post Office Box 1993
Hattiesburg, Mississippi 39401

FAIRCHILD-WINDHAM EXPLORATION

FOR L. D. Ross - Royalty .008115785 Inc.

⑈00002156⑈ ⑆065302808⑆ 620 121 4⑈ ⑈0000014351⑈



FAIRCHILD-WINDHAM EXPLORATION 0777
P. O. BOX 1857
HATTIESBURG, MS 39401

2256

85-280/653

1111 1139 14 10-05-82 [illegible]

PAID
OCT 05 82

Sept. 15, 19 82

PAY TO THE ORDER OF Walter L. Nixon, Jr. $ 11.92

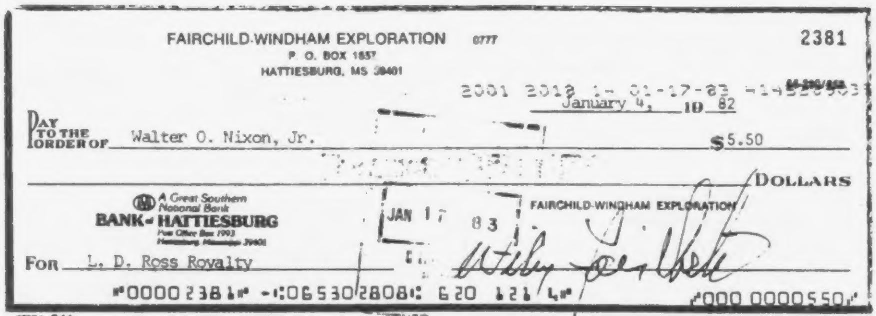
[illegible] DOLLARS

A Great Southern National Bank
BANK of HATTIESBURG
Post Office Box 1993
Hattiesburg, Mississippi 39401

FAIRCHILD-WINDHAM EXPLORATION

FOR .00811578 Roy. Int. L. D. Ross

⑈00002256⑈ ⑆065302808⑆ 620 121 4⑈ ⑈0000001192⑈



FAIRCHILD-WINDHAM EXPLORATION 0777
P. O. BOX 1857
HATTIESBURG, MS 39401

2381

85-280/853

2001 2018 1- 01-17-83

January 4, 19 82

PAY TO THE ORDER OF Walter O. Nixon, Jr. $5.50

DOLLARS

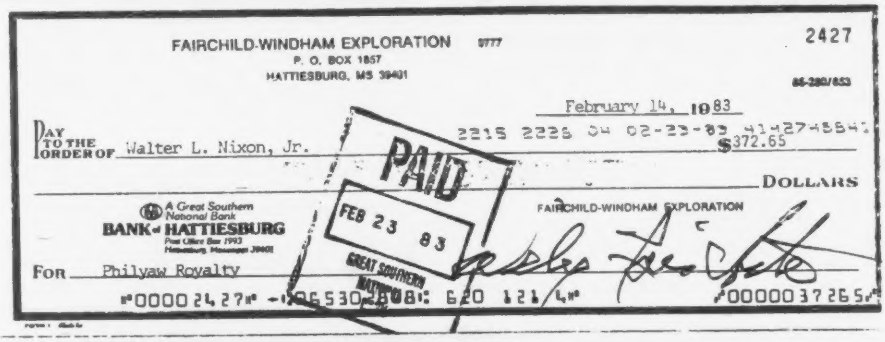
A Great Southern National Bank
BANK of HATTIESBURG
Post Office Box 1993
Hattiesburg, Mississippi 39401

JAN 17 83

FAIRCHILD-WINDHAM EXPLORATION

For L. D. Ross Royalty

⑈00002381⑈ ⑆065302808⑆ 620 121 4⑈ 0000000550



FAIRCHILD-WINDHAM EXPLORATION 0777
P. O. BOX 1857
HATTIESBURG, MS 39401

2427

85-280/853

February 14, 1983

2215 2226 04 02-23-83

PAY TO THE ORDER OF Walter L. Nixon, Jr. $372.65

DOLLARS

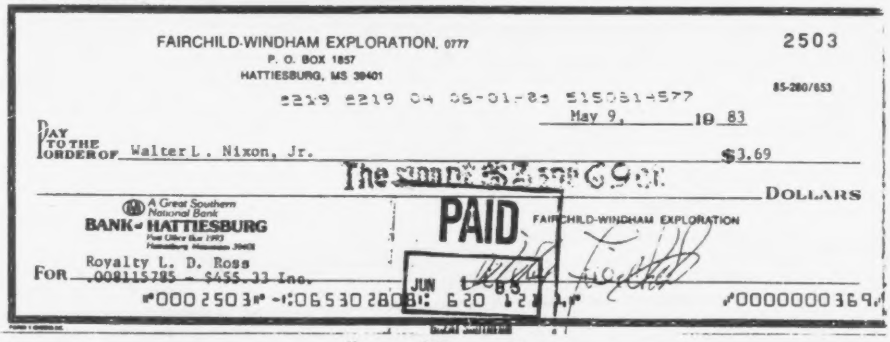
PAID
FEB 23 83
GREAT SOUTHERN NATIONAL

A Great Southern National Bank
BANK of HATTIESBURG
Post Office Box 1993
Hattiesburg, Mississippi 39401

FAIRCHILD-WINDHAM EXPLORATION

For Philyaw Royalty

⑈00002427⑈ ⑆065302808⑆ 620 121 4⑈ 0000037265



FAIRCHILD-WINDHAM EXPLORATION. 0777
P. O. BOX 1857
HATTIESBURG, MS 39401

2503

85-280/853

2219 2219 04 06-01-83 515081-577

May 9, 19 83

PAY TO THE ORDER OF Walter L. Nixon, Jr. $3.69

The [illegible] 69 Cts

DOLLARS

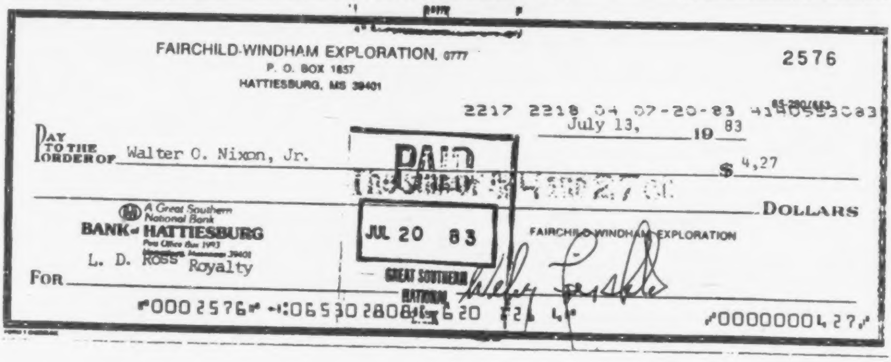
PAID
JUN 1 83

A Great Southern National Bank
BANK of HATTIESBURG
Post Office Box 1993
Hattiesburg, Mississippi 39401

FAIRCHILD-WINDHAM EXPLORATION

For Royalty L. D. Ross
.008115785 - $455.33 Inc.

⑈00002503⑈ ⑆065302808⑆ 620 121 4⑈ 0000000369



FAIRCHILD-WINDHAM EXPLORATION. 0777
P. O. BOX 1857
HATTIESBURG, MS 39401

2576

85-280/853

2217 2218 04 07-20-83

July 13, 19 83

PAY TO THE ORDER OF Walter O. Nixon, Jr. $4.27

[illegible] 27 Cts

DOLLARS

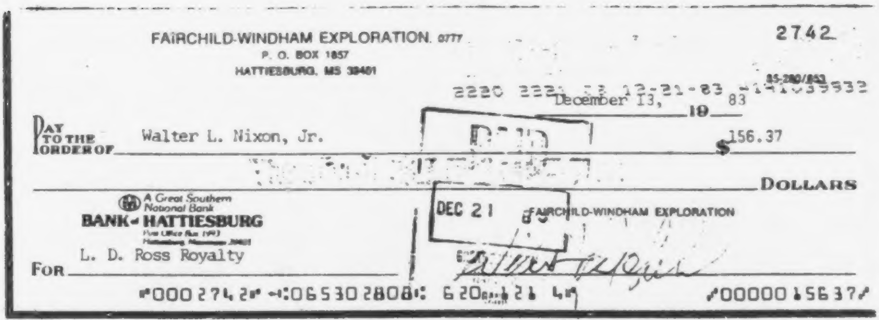
PAID
JUL 20 83
GREAT SOUTHERN NATIONAL

A Great Southern National Bank
BANK of HATTIESBURG
Post Office Box 1993
Hattiesburg, Mississippi 39401

FAIRCHILD-WINDHAM EXPLORATION

For L. D. Ross Royalty

⑈00002576⑈ ⑆065302808⑆ 620 121 4⑈ 0000000427



FAIRCHILD-WINDHAM EXPLORATION 0777
P. O. BOX 1857
HATTIESBURG, MS 39401

2742

85-280/853

2220 2221 13 12-21-83 141039932

December 13, 19 83

PAY TO THE ORDER OF Walter L. Nixon, Jr. $156.37

PAID

[illegible] DOLLARS

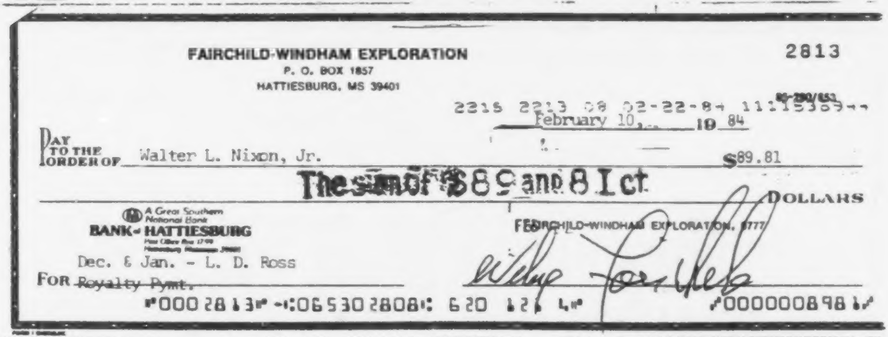
A Great Southern National Bank
BANK of HATTIESBURG

DEC 21 83

FAIRCHILD-WINDHAM EXPLORATION

FOR L. D. Ross Royalty

⑈0002742⑈ ⑆065302808⑆ 620 121 4⑈ ⑈0000015637⑈



FAIRCHILD-WINDHAM EXPLORATION
P. O. BOX 1857
HATTIESBURG, MS 39401

2813

85-280/853

2215 2213 08 02-22-84 111153894

February 10, 19 84

PAY TO THE ORDER OF Walter L. Nixon, Jr. $89.81

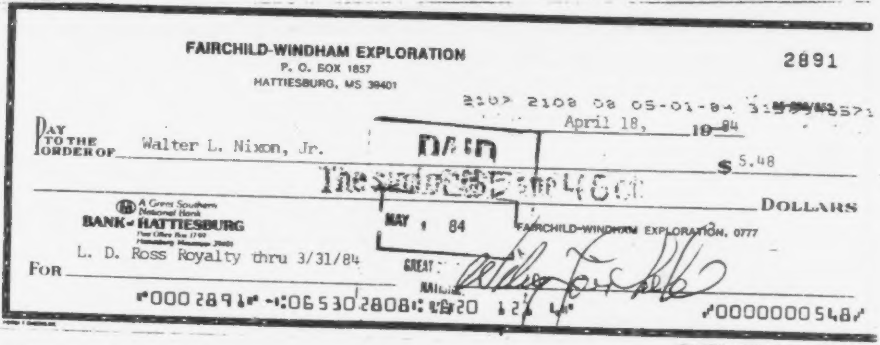
The sum of $89 and 81 ct DOLLARS

A Great Southern National Bank
BANK of HATTIESBURG

FEB FAIRCHILD-WINDHAM EXPLORATION, 0777

FOR Dec. & Jan. - L. D. Ross ~~Royalty Pymt.~~

⑈0002813⑈ ⑆065302808⑆ 620 121 4⑈ ⑈0000008981⑈



FAIRCHILD-WINDHAM EXPLORATION
P. O. BOX 1857
HATTIESBURG, MS 39401

2891

85-280/853

2107 2108 08 05-01-84 31 5571

April 18, 19 84

PAY TO THE ORDER OF Walter L. Nixon, Jr. $5.48

PAID

The sum of $5 and 48 ct DOLLARS

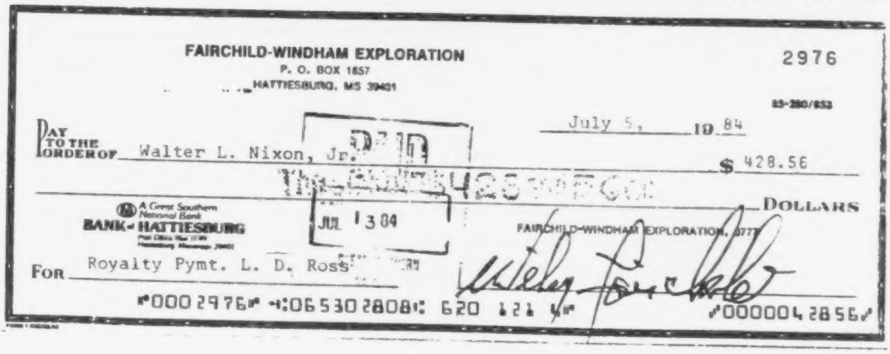
MAY 1 84

A Great Southern National Bank
BANK of HATTIESBURG

FAIRCHILD-WINDHAM EXPLORATION, 0777

FOR L. D. Ross Royalty thru 3/31/84

⑈0002891⑈ ⑆065302808⑆ 620 121 4⑈ ⑈0000000548⑈



FAIRCHILD-WINDHAM EXPLORATION
P. O. BOX 1857
HATTIESBURG, MS 39401

2976

85-280/853

July 5, 19 84

PAY TO THE ORDER OF Walter L. Nixon, Jr. $428.56

PAID

The sum of $428 and 56 ct DOLLARS

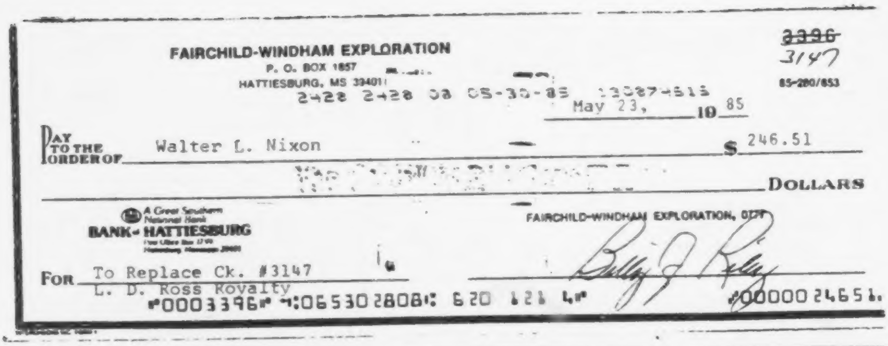
JUL 13 84

A Great Southern National Bank
BANK of HATTIESBURG

FAIRCHILD-WINDHAM EXPLORATION, 0777

FOR Royalty Pymt. L. D. Ross

⑈0002976⑈ ⑆065302808⑆ 620 121 4⑈ ⑈0000042856⑈



FAIRCHILD-WINDHAM EXPLORATION
P. O. BOX 1857
HATTIESBURG, MS 39401

~~3396~~
3147

85-280/853

2428 2428 08 05-30-85 13087-515

May 23, 19 85

PAY TO THE ORDER OF Walter L. Nixon $ 246.51

DOLLARS

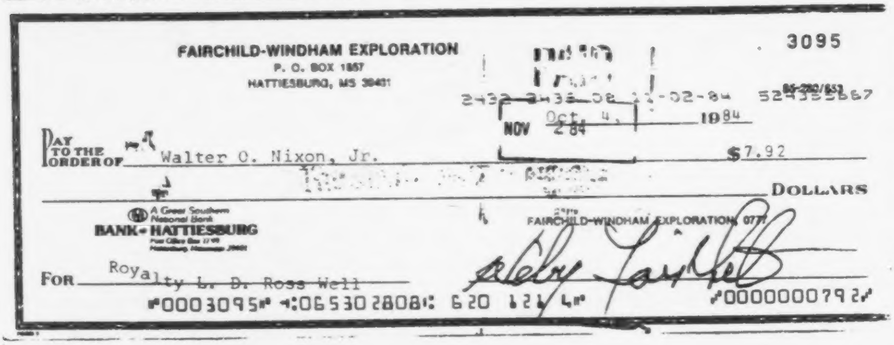
A Great Southern National Bank
BANK-HATTIESBURG

FAIRCHILD-WINDHAM EXPLORATION, 0777

Billy J. Riley

FOR To Replace Ck. #3147
L. D. Ross Royalty

⑈0003396⑈ ⑆065302808⑆ 620 121 4⑈ ⑈0000024651⑈



FAIRCHILD-WINDHAM EXPLORATION
P. O. BOX 1857
HATTIESBURG, MS 39401

3095

85-280/653

2432 2436 08 11-02-84 524355667

NOV 2 84

Oct. 4, 19 84

PAY TO THE ORDER OF Walter O. Nixon, Jr. $7.92

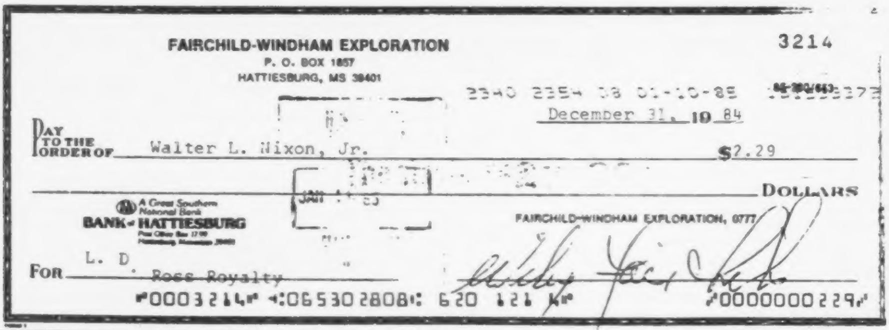
DOLLARS

A Great Southern National Bank
BANK-HATTIESBURG

FAIRCHILD-WINDHAM EXPLORATION, 0777

FOR Royalty L. D. Ross Well

⑈0003095⑈ ⑆065302808⑆ 620 121 4⑈ ⑈0000000792⑈



FAIRCHILD-WINDHAM EXPLORATION
P. O. BOX 1857
HATTIESBURG, MS 39401

3214

85-280/653

2340 2354 08 01-10-85

December 31, 19 84

PAY TO THE ORDER OF Walter L. Nixon, Jr. $2.29

JAN 85

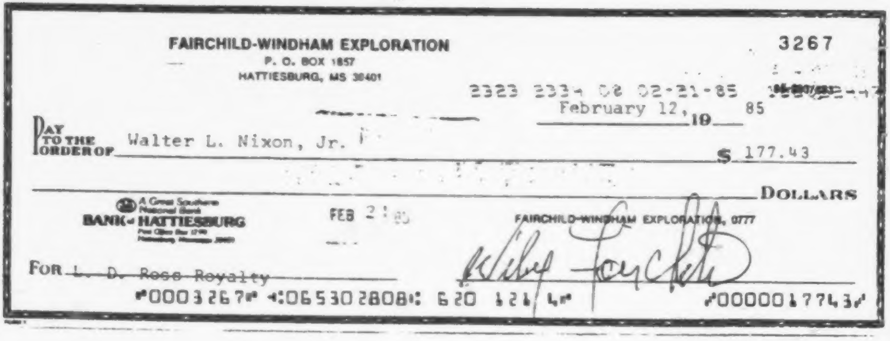
DOLLARS

A Great Southern National Bank
BANK-HATTIESBURG

FAIRCHILD-WINDHAM EXPLORATION, 0777

FOR L. D. Ross Royalty

⑈0003214⑈ ⑆065302808⑆ 620 121 4⑈ ⑈0000000229⑈



FAIRCHILD-WINDHAM EXPLORATION
P. O. BOX 1857
HATTIESBURG, MS 39401

3267

85-280/653

2323 2334 08 02-21-85

February 12, 19 85

PAY TO THE ORDER OF Walter L. Nixon, Jr. $ 177.43

DOLLARS

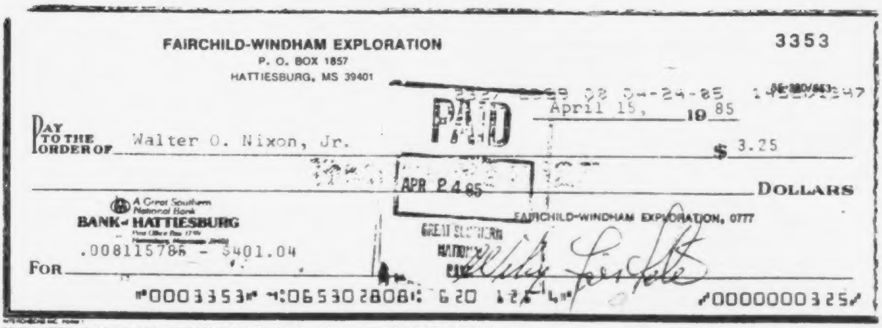
A Great Southern National Bank
BANK-HATTIESBURG

FEB 21 85

FAIRCHILD-WINDHAM EXPLORATION, 0777

FOR L. D. Ross Royalty

⑈0003267⑈ ⑆065302808⑆ 620 121 4⑈ ⑈0000017743⑈



FAIRCHILD-WINDHAM EXPLORATION
P. O. BOX 1857
HATTIESBURG, MS 39401

3353

85-280/853

PAID

April 15, 19 85

PAY TO THE ORDER OF Walter O. Nixon, Jr. $ 3.25

APR 24 85

DOLLARS

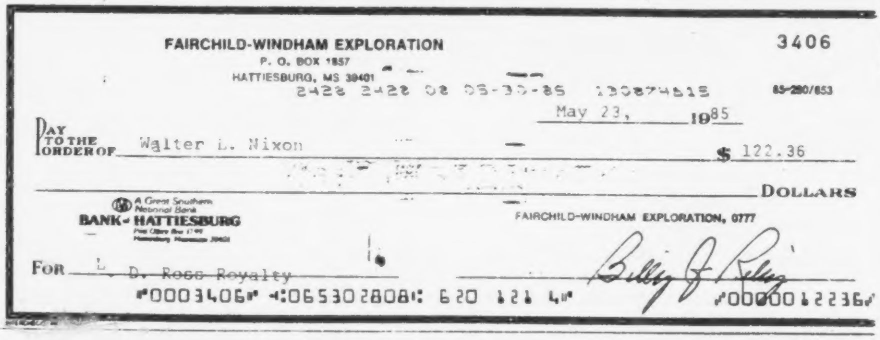
A Great Southern National Bank
BANK-HATTIESBURG

FAIRCHILD-WINDHAM EXPLORATION, 0777

.008115786 - $401.04

FOR

⑈0003353⑈ ⑆065302808⑆ 620 121 4⑈ ⑉0000000325⑉



FAIRCHILD-WINDHAM EXPLORATION
P. O. BOX 1857
HATTIESBURG, MS 39401

3406

2428 2428 08 05-30-85 130874815

85-280/853

May 23, 19 85

PAY TO THE ORDER OF Walter L. Nixon $ 122.36

DOLLARS

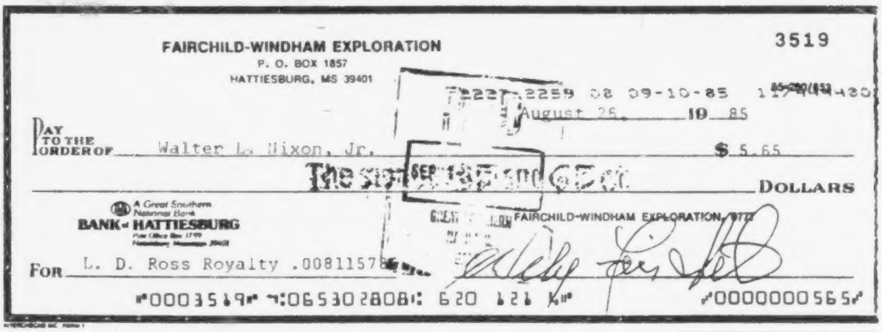
A Great Southern National Bank
BANK-HATTIESBURG

FAIRCHILD-WINDHAM EXPLORATION, 0777

FOR L. D. Ross Royalty

Billy J. Riley

⑈0003406⑈ ⑆065302808⑆ 620 121 4⑈ ⑉0000012236⑉



FAIRCHILD-WINDHAM EXPLORATION
P. O. BOX 1857
HATTIESBURG, MS 39401

3519

2259 08 09-10-85

85-280/853

August 26, 19 85

PAY TO THE ORDER OF Walter L. Nixon, Jr. $ 5.65

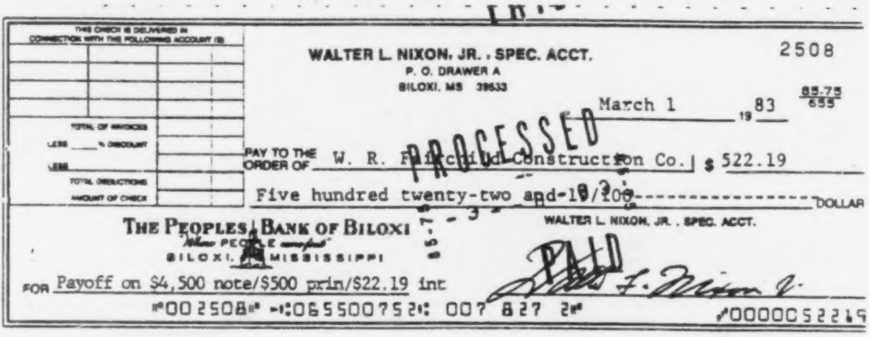
DOLLARS

A Great Southern National Bank
BANK-HATTIESBURG

FAIRCHILD-WINDHAM EXPLORATION, 0777

FOR L. D. Ross Royalty .0081157

⑈0003519⑈ ⑆065302808⑆ 620 121 4⑈ ⑉0000000565⑉



THIS CHECK IS DELIVERED IN CONNECTION WITH THE FOLLOWING ACCOUNT (S)

TOTAL OF INVOICES
LESS ___ % DISCOUNT
LESS
TOTAL DEDUCTIONS
AMOUNT OF CHECK

WALTER L. NIXON, JR., SPEC. ACCT.
P. O. DRAWER A
BILOXI, MS 39533

2508

85-75/655

March 1 1983

PAY TO THE ORDER OF W. R. Fairchild Construction Co. $ 522.19

Five hundred twenty-two and 19/100 DOLLARS

THE PEOPLES BANK OF BILOXI
BILOXI, MISSISSIPPI

WALTER L. NIXON, JR., SPEC. ACCT.

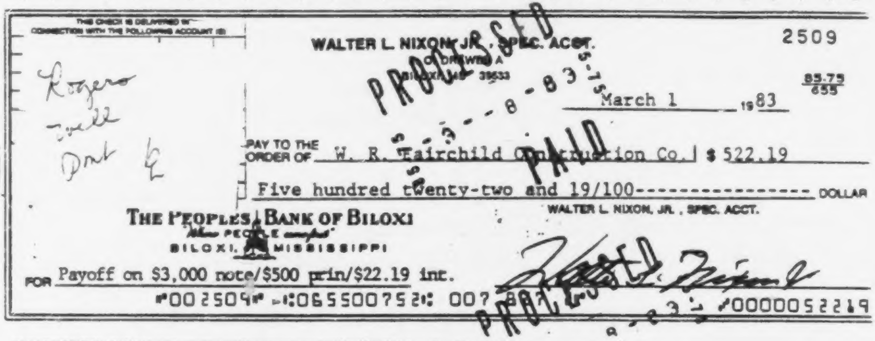
FOR Payoff on $4,500 note/$500 prin/$22.19 int

Walter L. Nixon Jr.

⑈002508⑈ ⑆065500752⑆ 007 827 2⑈ ⑈0000052219⑈

PROCESSED

PAID



THIS CHECK IS DELIVERED IN CONNECTION WITH THE FOLLOWING ACCOUNT (S)

Rogers Well Pmt

WALTER L. NIXON, JR., SPEC. ACCT.
P. O. DRAWER A
BILOXI, MS 39533

2509

85-75/655

March 1 1983

PAY TO THE ORDER OF W. R. Fairchild Construction Co. $ 522.19

Five hundred twenty-two and 19/100 DOLLARS

THE PEOPLES BANK OF BILOXI
BILOXI, MISSISSIPPI

WALTER L. NIXON, JR., SPEC. ACCT.

FOR Payoff on $3,000 note/$500 prin/$22.19 int.

Walter L. Nixon Jr.

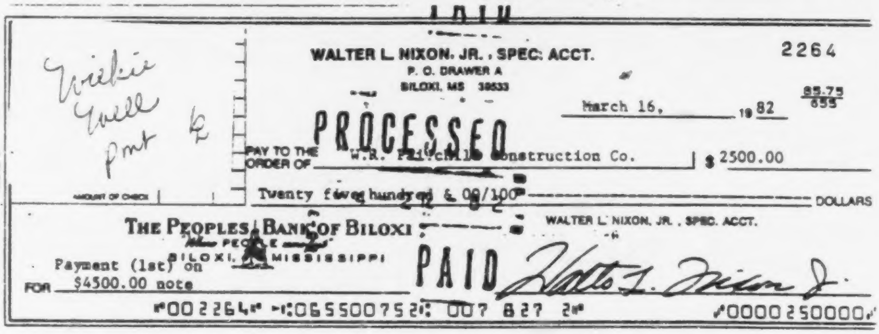
⑈002509⑈ ⑆065500752⑆ 007 827 2⑈ ⑈0000052219⑈

PROCESSED

85-75 3-8-83

PAID

PROCESSED



Vickie Well Pmt

AMOUNT OF CHECK

WALTER L. NIXON, JR., SPEC. ACCT.
P. O. DRAWER A
BILOXI, MS 39533

2264

85-75/655

March 16, 1982

PAY TO THE ORDER OF W.R. Fairchild Construction Co. $ 2500.00

Twenty five hundred & 00/100 DOLLARS

THE PEOPLES BANK OF BILOXI
BILOXI, MISSISSIPPI

WALTER L. NIXON, JR., SPEC. ACCT.

FOR Payment (1st) on $4500.00 note

Walter L. Nixon Jr.

⑈002264⑈ ⑆065500752⑆ 007 827 2⑈ ⑈0000250000⑈

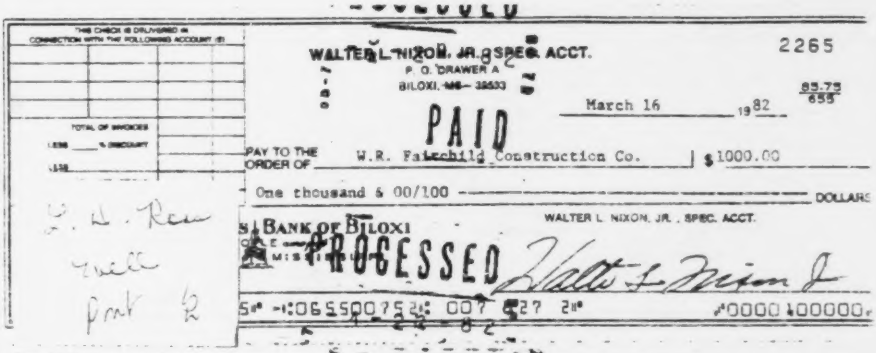
PROCESSED

PAID

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 9



THIS CHECK IS DELIVERED IN CONNECTION WITH THE FOLLOWING ACCOUNT (S)

TOTAL OF INVOICES

LESS ___% DISCOUNT

L. H. Rew
Well
Pmt ½

WALTER L. NIXON, JR., SPEC. ACCT.
P. O. DRAWER A
BILOXI, MS 39533

2265

85-75
655

March 16 19 82

PAID

PAY TO THE ORDER OF W.R. Fairchild Construction Co. $ 1000.00

One thousand & 00/100 ———— DOLLARS

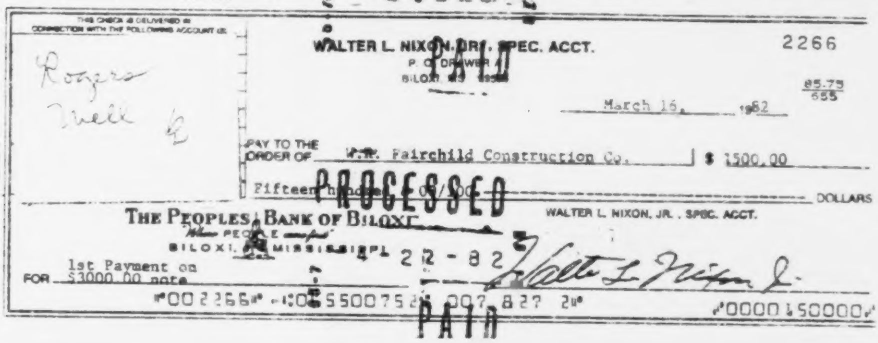
S BANK OF BILOXI

WALTER L. NIXON, JR., SPEC. ACCT.

PROCESSED

Walter L. Nixon Jr.

5⑈ ⑆0655007521⑆ 007 827 2⑈ ⑉0000100000⑉



THIS CHECK IS DELIVERED IN CONNECTION WITH THE FOLLOWING ACCOUNT (S)

Rogers
Well ½

WALTER L. NIXON, JR., SPEC. ACCT.
P. O. DRAWER A
BILOXI, MS 39533

PAID

2266

85-75
655

March 16, 19 82

PAY TO THE ORDER OF W.R. Fairchild Construction Co. $ 1500.00

Fifteen hundred & 00/100 ———— DOLLARS

PROCESSED

THE PEOPLES BANK OF BILOXI
Where People come first
BILOXI, MISSISSIPPI

WALTER L. NIXON, JR., SPEC. ACCT.

4-22-82

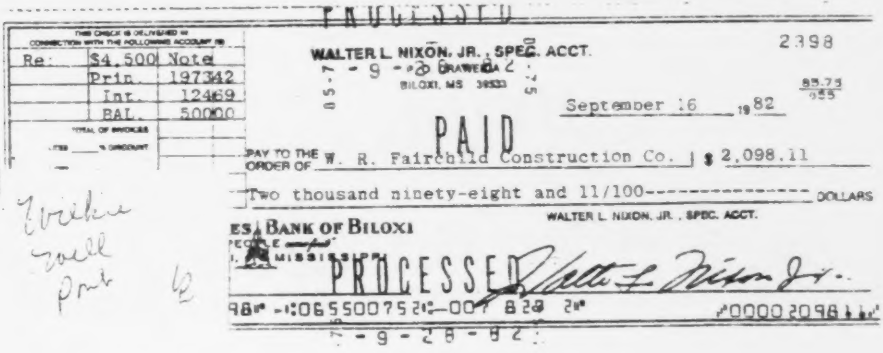
FOR 1st Payment on $3000.00 note

Walter L. Nixon Jr.

⑈002266⑈ ⑆0655007521⑆ 007 827 2⑈ ⑉0000150000⑉

PAID

PROCESSED



THIS CHECK IS DELIVERED IN CONNECTION WITH THE FOLLOWING ACCOUNT (S)

Re:	$4,500	Note
	Prin.	197342
	Int.	12469
	BAL.	50000

TOTAL OF INVOICES

LESS ___% DISCOUNT

Wilkie
Well
Pmt ½

WALTER L. NIXON, JR., SPEC. ACCT.
P. O. DRAWER A
BILOXI, MS 39533

2398

85-75
655

September 16 19 82

PAID

PAY TO THE ORDER OF W. R. Fairchild Construction Co. $ 2,098.11

Two thousand ninety-eight and 11/100-------------- DOLLARS

ES BANK OF BILOXI

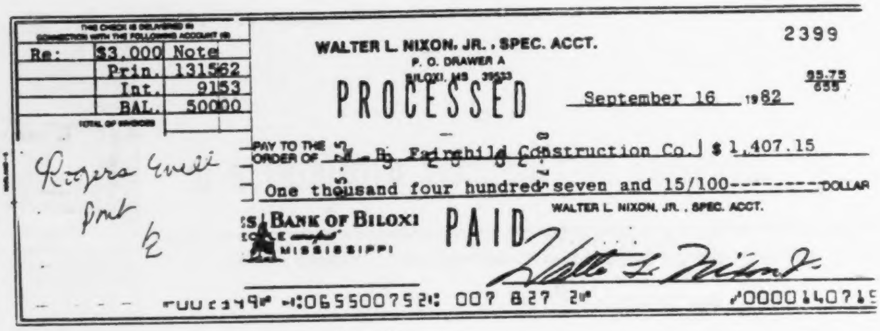
WALTER L. NIXON, JR., SPEC. ACCT.

PROCESSED

Walter L. Nixon Jr.

98⑈ ⑆0655007521⑆ 007 828 2⑈ ⑉0000209811⑉

9-28-82



THIS CHECK IS DELIVERED IN CONNECTION WITH THE FOLLOWING ACCOUNT (S)

Re:	$3,000	Note
	Prin.	1315 62
	Int.	91 53
	BAL.	500 00
	TOTAL OF INVOICES	

Rogers Evell

pmt

½

WALTER L. NIXON, JR., SPEC. ACCT.
P. O. DRAWER A
BILOXI, MS 39533

2399

85-75/655

PROCESSED

September 16 1982

PAY TO THE ORDER OF W. R. Fairchild Construction Co. $ 1,407.15

One thousand four hundred seven and 15/100---------DOLLAR

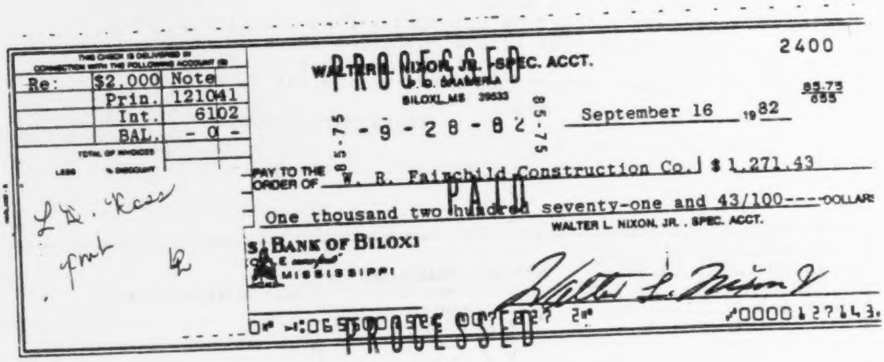
BANK OF BILOXI
MISSISSIPPI

PAID

WALTER L. NIXON, JR., SPEC. ACCT.

Walter L. Nixon Jr.

⑈002399⑈ ⑆065500752⑆ 007 827 2⑈ ⑉0000140715



THIS CHECK IS DELIVERED IN CONNECTION WITH THE FOLLOWING ACCOUNT (S)

Re:	$2,000	Note
	Prin.	1210 41
	Int.	61 02
	BAL.	- 0 -
	TOTAL OF INVOICES	
LESS	% DISCOUNT	

L. D. Ross

pmt

½

WALTER L. NIXON, JR., SPEC. ACCT.
P. O. DRAWER A
BILOXI, MS 39533

PROCESSED

85-75 - 9 - 28 - 82 85-75

2400

85-75/655

September 16 1982

PAY TO THE ORDER OF W. R. Fairchild Construction Co. $ 1,271.43

One thousand two hundred seventy-one and 43/100----DOLLARS

PAID

WALTER L. NIXON, JR., SPEC. ACCT.

BANK OF BILOXI
MISSISSIPPI

Walter L. Nixon Jr.

⑈0⑈ ⑆065500752⑆ 007 827 2⑈ ⑉0000127143

PROCESSED

August 20, 1984

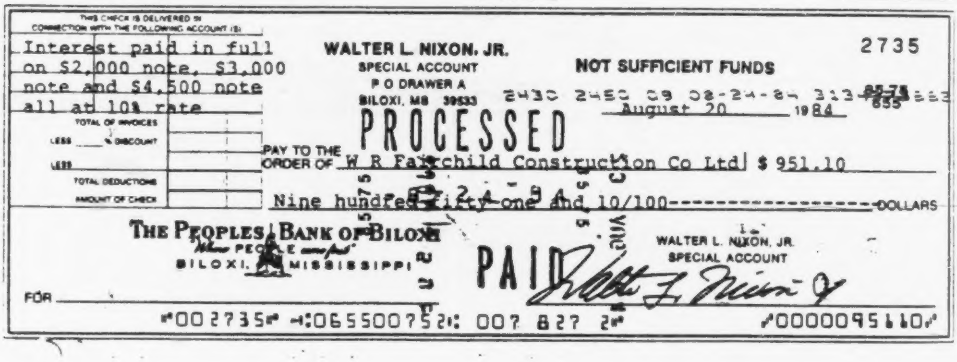
DEFENDANT'S EXHIBIT 24

Mr. Billy Riley
W. R. Fairchild Construction Company, Ltd.
P. O. Box 1357
Hattiesburg, MS 39401

Dear Mr. Riley:

I am in receipt of your July 31, 1984 letter informing me that an error was made in computing the amount of interest. As you requested I have checked my records; I find that the correct figure is $951.10 and enclose a check in that amount with a copy of my computation. If my computations are in error please let me know.

Yours very truly,



THIS CHECK IS DELIVERED IN CONNECTION WITH THE FOLLOWING ACCOUNT (S)

Interest paid in full on $2,000 note, $3,000 note and $4,500 note all at 10% rate

TOTAL OF INVOICES
LESS ____ % DISCOUNT
LESS
TOTAL DEDUCTIONS
AMOUNT OF CHECK

WALTER L. NIXON, JR.
SPECIAL ACCOUNT
P O DRAWER A
BILOXI, MS 39533

2735

NOT SUFFICIENT FUNDS

2430 2450 09 08-24-84 313

85-75
655

PROCESSED

August 20 1984

PAY TO THE ORDER OF W R Fairchild Construction Co Ltd $ 951.10

Nine hundred fifty one and 10/100------------------DOLLARS

THE PEOPLES BANK OF BILOXI
Where PEOPLE count
BILOXI, MISSISSIPPI

PAID

WALTER L. NIXON, JR.
SPECIAL ACCOUNT

Walter L. Nixon Jr

FOR

⑈002735⑈ ⑆065500752⑆ 007 827 2⑈ ⑈0000095110⑈

W.R.FAIRCHILD CONSTRUCTION COMPANY, LTD.

P O BOX 15909 · TEL. 544-1151 · HATTIESBURG, MISSISSIPPI 39402-5909

WILEY FAIRCHILD
PARTNER AND
GENERAL MANAGER

January 24, 1989

Peter Keith
Office of Special Consultant
House Judiciary Consultant
House Annex 2 -- RM 366
Washington, DC 20515

Dear Mr. Keith:

Enclosed is a listing of all monies paid to Walter L.Nixon, Jr. on his oil investments up to date as follows:

Wilkie Gas Unit # 28	
W. R. Fairchild Construction Company, Ltd.	$42,912.69
Rogers 28-11	
W. R. Fairchild Construction Company, Ltd.	26,764.20
L.D. Ross Well	
W. R. Fairchild Consttuction Company, Ltd.	39.24
Fairchild-Windham Exploration Company	3,079.67
Marie Fairchild Life Ins. Trust	133.62
Rodney Fairchild Liife Ins. Trust	100.25
Total Paid to Date	$73,029.67

Sincerely,

W. R. FAIRCHILD CONSTRUCTION COMPANY, LTD.

Wiley Fairchild

WF/ljs

Enclosures

cc: Larry Gunn

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 10

Payments to Walter L Nixen Jr - Willsie Gas unit # 28

Page 1

Date	Payment No.	Amount
[illegible]-82	1	$10,093.
9-22-82	2	894.
10-22-82	3	690.3
11-22-82	4	873.1
12-23-82	5	815.2
1-7-83	6	11.80
1-24-83	7	758.6
2-22-83	8	869.9
3-23-83	9	1,021.0
4-22-83	10	649.09
5-23-83	11	680.76
6-23-83	12	643.92
7-22-83	13	612.2
8-22-83	14	709.73
9-23-83	15	817.87
10-24-83	16	595.05
11-22-83	17	572.14
12-27-83	18	758.23
1-23-84	19	781.52
2-27-84	20	783.82
3-23-84	21	532.26
4-23-84	22	457.50
5-21-84	23	519.21
6-27-84	24	729.21
	Total To date	$25,871.93

Page 2

Payments to Walter L Nixon Jr - Wilkie Gas Unit #28

Date	Payment No	VO#	CK#	Amount
6-27-84	B/F'd			$ 25,871.93
7-23-84	25	7-424	12520	823.01 ✓
8-23-84	26	8-471	13052	771.59 ✓
9-24-84	27	9-541	13647	665.19 ✓
10-23-84	28	10-495	14152	510.67 ✓
11-26-84	29	11-516	14811	822.05 ✓
12-24-84	30	12-504	15375	920.72 ✓
1-21-85	31	1-471	15853	944.25 ✓
2-22-85	32	3-024	16461	912.82 ✓
3-22-85	33	3-507	436	849.11 ✓
4-22-85	34	4-284	1011	847.36 ✓
5-24-85	35	5-478	1591	741.37 ✓
	Total To Date			$ 34,677.07
6-27-85	36			164.94
7-22-85	37			581.10
8-22-85	38			453.47
	Total to Date			35,876^{58}

Page 3

W R Fairchild Const Co Ltd
Payments to Walter L. Nixon, Jr - Wilkie Gas Unit #28

Date	Payment No.	Amount
8-22-85	B/Fd	35,876.58
9-23-85	39	236.99
9-27-85	40	39.40
10-23-85	41	288.44
11-22-85	42	213.75
12-23-85	43	218.76
1-22-86	44	276.56
2-24-86	45	294.85
3-24-86	46	216.62
4-23-86	47	189.80
5-23-86	48	145.51
6-25-86	49	164.05
7-24-86	50	143.29
8-25-86	51	132.86
9-22-86	52	137.79
10-23-86	[illegible]	142.67
11-24-86	54	143.08
12-22-86	55	139.50
1-23-87	56	137.59
2-23-87	57	157.53
3-24-87	58	159.31
4-23-87	59	177.96
5-22-87	60	180.02
total this Page		39,812.31

Page 4

W R Fairchild Const Co Ltd

Payments to Walter L. Nixon, Jr. Wilkie Gas Unit #28

Date	Payment #	amount
5-22-87	Balance Forward	39,812.31
6-22-87	61	167.67
7-22-87	62	171.77
8-24-87	63	188.15
9-23-87	64	186.14
10-22-87	65	159.38
11-23-87	66	180.58
12-28-87	67	200.82
1-22-88	68	176.42
2-23-88	69	186.13
3-23-88	70	184.38
4-25-88	71	171.72
5-23-88	72	170.35
6-23-88	73	178.43
7-22-88	74	173.98
8-22-88	75	156.12
9-22-88	76	138.44
10-23-88	77	43.04
12-22-88	78	106.30
1-23-89	79	160.54
Total to Date		42,912.69

Page 1

Date	Payment No.	Amount
2-19-82	1	$ 5,941.0
3-3-82	2	1,071.2
3-26-82	3	1,103.8
4-28-82	4	971.84
5-24-82	5	1,060.70
6-25-82	6	974.69
7-23-82	7	1028.70
8-23-82	8	1,061.61
9-29-82	9	1,321.75
10-25-82	10	846.01
11-29-82	11	867.50
12-29-82	12	815.44
1-27-83	13	343.37
2-25-83	14	446.29
3-25-83	15	715.78
4-22-83	16	678.29
5-23-83	17	557.44
6-23-83	18	805.89
7-22-83	19	325.69
8-26-83	20	169.17
9-22-83	21	107.33
12-27-83	22	55.47
1-27-84	23	110.09
4-27-84	24	107.38
5-24-84	25	207.00
6-26-84	26	199.13
Total To date		$ 21,892.74

Page 2

Payments to Walter L Nixon Jr - Rogers 28-11

Date	Payment No.	VO#	CK#	Amount
6-26-84	B/Fd			$ 21,892.74
7-30-84	27	7-424	12520	152.17
8-29-84	28	8-471	13052	155.54
9-28-84	29	9-541	13647	184.26
10-22-84	30	10-495	14152	194.53
11-28-84	31	11-516	14811	142.71
12-31-84	32	12-504	15325	136.03
1-25-85	33	1-471	15853	138.12
3-1-85	34	3-024	16461	140.34
3-22-85	35	3-507	436	141.89
4-19-85	36	4-284	1011	116.38
5-20-85	37	5-478	[illegible]	155.18
	Total to Date			$ 23,549.81
6-21-85	38			134.25
7-24-85	39			131.04
8-22-85	40			127.58
	Total to Date			23,942.7

W R Fairchild Const Co Ltd   Page 3
Payments to Walter L. Nixon, Jr - Rogers 28-11

Date	Payment No.	Amount
8-22-85	B/F'd	23,942.76
9-23-85	41	137.09
10-22-85	42	8.85
11-20-85	43	202.90
12-23-85	44	6.76
12-26-85	45	55.54
1-30-86	46	66.43
2-28-86	47	92.00
3-27-86	48	77.95
4-28-86	49	80.34
5-27-86	50	88.78
6-26-86	51	74.46
7-28-86	52	75.37
8-27-86	53	66.60
9-29-86	54	53.49
10-28-86	55	43.06
11-28-86	56	35.43
12-31-86	57	15.89
1-28-87	58	13.74
3-9-87	59	23.13
3-27-87	60	37.87
4-28-87	61	288.13
6-3-87	62	172.32
total this Page		25,658.89

W R Fairchild Const Co Ltd　　Page 4

Payments to Walter L. Rixon Jr.　　Rogers 28-11

Date	Payment #	amount
6-3-87	Balance Forward	25,658.89
7-9-87	63	91.02
7-28-87	64	19.22
8-31-87	65	13.44
9-29-87	66	25.65
10-26-87	67	42.79
11-30-87	68	17.78
12-31-87	69	66.90
2-1-88	70	42.13
3-1-88	71	68.48
3-25-88	72	1.38
4-29-88	73	9.37
5-27-88	74	2.47
6-30-88	75	4.10
7-28-88	76	144.12
8-29-88	77	100.39
9-30-88	78	160.06
10-27-88	79	103.65
11-28-88	80	123.99
12-28-88	81	68.37
total to Date		26,764.20

W.R Fairchild Const Co Ltd
Payments to Walter L. Nixon, Jr - L. D. Ross Well

Date	Payment No	Amount
12-31-87	1	21.11
8-29-88	2	18.13
	Total to Date 1-23-89	39.24

Royalty Payments on L. D. Ross

Date	Payment No.	Amount
[illegible]/8/82	I	464.
[illegible]/82	2	1.1
[illegible]/82	3	143.5
9/[illegible]/82	4	11.9
1/5/83	5	5.
2/14/83	6	372.1
5/9/83	7	3.6
7/13/83	8	4.2
12/13/83	9	156.3
2/[illegible]/84	10	89.8
4/15/84	11	5.4
7/5/84	12	428.5
	Total To Date	$1,687.13
10/2/84	13	7.92
11/[illegible]/84	14	246.51
12/3/84	15	2.29
2/12/85	16	177.43
4/5/85	17	3.25
5/23/85	18	122.36
		$2,246.89

Date	Payment No	Amount
8/26/85	19	5^{65}
9/11/85	20	186^{46}
11/14/85	21	3.90
1/22/86	22	194.83
3/28/86	23	6.36
6/25/86	24	195.08
9/24/86	25	5.2-
10/6/86	26	101.51
12/29/86	27	.88
2/10/87	28	129.03
6/10/87	29	3.85
		# $3{,}079^{67}$

Total Paid To Walter L. Nixon
By Fairchild Windham Exp. Co.
ON L. D. Ross Well

Marie I Fairchild

Life Insurance Trust
Royalty Payments to
Walter L. Nixon on L D. Rosswell

Date	Payment No	Amount
7/31/87	I	81.34
1/7/88	2	28.11
8/23/88	3	24.17
		$ 133.62

Total Paid By MIFLI

Rodney Fairchild
Life Insurance Trust
Royalty Payment to Waller L. Nixon- ON L.D Ross Well

Date	Payment No.	Amount
7/31/37	I	61^{00}
1/7/88	2	21^{12}
8/23/88	3	18^{13}
	Total Paid By RFLIT	\$100.25

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
SEP 06 1984
CLARENCE A. PIERCE, CLERK
BY ______ DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

UNITED STATES OF AMERICA

VS.

WILEY FAIRCHILD

CRIMINAL NO. H84-00009
Violations: 18 U.S.C. §201(f)
(gratuity)
18 U.S.C. §1623
(perjury)

The Grand Jury charges:

COUNT 1

1. At all times material to this Indictment:

a. Wiley Fairchild was a businessman living in Hattiesburg, Mississippi.

b. Walter Nixon was a United States District Court Judge in the Southern District of Mississippi.

2. On or about February 25, 1981, the exact date being unknown to the grand jury, in Forrest County in the Hattiesburg Division of the Southern District of Mississippi, the defendant WILEY FAIRCHILD unlawfully and knowingly did, directly and indirectly, give and offer things of value to United States District Court Judge Walter Nixon otherwise than as provided by law for the proper discharge of Judge Nixon's official duties; to wit, mineral royalty interests in three wells, for and because of official acts to be performed by Judge Nixon in the future in matters of interest to the defendant WILEY FAIRCHILD.

In violation of Title 18, United States Code, Section 201(f).

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 11

COUNT II

1. Paragraph one of Count One of the Indictment is hereby realleged and incorporated as if set forth in full herein.

2. On or about July 18, 1984, in Forrest County in the Hattiesburg Division of the Southern District of Mississippi, the defendant WILEY FAIRCHILD, having duly taken an oath that he would testify truthfully in proceedings before a grand jury of the United States, did knowingly and contrary to said oath make false material declarations as hereinafter set forth.

3. At the time and place set forth in paragraph two, the Grand Jury of the United States District Court for the Southern District of Mississippi was conducting an investigation into the circumstances of the transfer of mineral royalty interests from the defendant WILEY FAIRCHILD, to Judge Nixon.

4. It was material to the grand jury's investigation described in paragraph three to determine the manner in which the transfer of the mineral royalty interests to Judge Nixon was effected by the defendant WILEY FAIRCHILD.

5. It was material to the grand jury's investigation described in paragraph three to determine if the defendant WILEY FAIRCHILD handled the mineral royalty interests in a manner not consistent with his normal course of business, and if the defendant WILEY FAIRCHILD attempted to conceal from his employees the nature of the transfer of mineral royalty interests and the identity of Judge Nixon as the recipient of the interests.

6. At the time and place set forth in paragraph two, the defendant WILEY FAIRCHILD, appearing as a witness under oath before the grand jury, was asked the following questions and gave the following answers, knowing the underscored material declarations to be false:

Q. Did you make any effort, when this transaction first occurred, to prevent people in your employ from knowing that you were transferring--that these wells were being transferred to Judge Nixon?

A. No, sir.

Q. Did you not--were these deeds not, your instruction, asked to be drawn up in blank and the grantee part such that the person drawing them up would not know who they were for?

A. No, I don't remember nothing like that.

Q. Possible, you don't remember, or it didn't happen?

A. I don't remember it happening. I don't remember it happening. I do remember "Skip" Jarvis saying we better keep this quiet, we better keep it quiet, but that never--

Q. At what point in time was that? Was that when the deeds were drafted?

A. That was sometime, I don't remember.

Q. Well, when you asked these things to originally be drafted did you tell the person that drafted them Walter Nixon was the recipient of the royalty interest?

A. Yeah, yes.

Q. You made no efforts to conceal from anybody the--did you make any efforts to conceal the fact that you were transferring these wells to Walter Nixon and not Joe Blow or not somebody other than Walter Nixon?

A. No, I didn't make any effort.

7. The underscored segments of material declarations made under oath before the grand jury by the defendant WILEY FAIRCHILD, as set forth in paragraph six, as defendant WILEY FAIRCHILD then and there well knew and believed, were false in that the defendant WILEY FAIRCHILD (1) did make efforts to prevent his employees from knowing that he was transferring mineral interests to Judge Nixon; (2) did not tell the person who drafted the deeds that Judge Nixon was the recipient of the royalty interests when the defendant originally asked that the deeds be drafted; and (3) did instruct his staff that the deeds effecting the transfer were to be drawn up with the grantee in blank so as to prevent the disclosure of Judge Nixon as the recipient of the interests.

In violation of Title 18, U.S.C. Section 1623.

A TRUE BILL

Foreman

Date: 9-5-84

REID H. WEINGARTEN
Attorney
U. S. Department of Justice
Public Integrity Section
Criminal Division
P. O. Box 50168
F. Street Station
Washington, D. C. 20004-0168
(202) 724-6974

U.S. Department of Justice

RHW:JNL:ab
186-41-169

Washington, D.C. 20530

NOV 20 1984

DEFENDANT'S EXHIBIT 28

Barry Hess, Esq.
Hess, Atchison & Horne
301 St. Joseph Street
Post Office Box 1706
Mobile, Alabama 36633

Dear Mr. Hess:

As you know, your client, Wiley Fairchild, made a proffer to the United States in connection with plea negotiations on November 1, 1984. We have evaluated that proffer and we have concluded that Mr. Fairchild is making a good faith effort to cooperate with the Government. If a plea agreement is reached between Mr. Fairchild and the United States consistent with the terms set in New Orleans and memorialized in a separate document (attached hereto), we would expect continuing cooperation from Mr. Fairchild, including complete and truthful testimony before the Grand Jury and at any and all trials that may follow from this investigation. In the event that we conclude (and it would be solely our determination) that such cooperation has been and is forthcoming, we would recommend to the sentencing judge that a prison sentence is not warranted in this case. If we conclude that the cooperation from Mr. Fairchild is not complete in any manner, we would be free, of course, to modify our recommendations. I know you understand as well that the sentencing Judge would not be obliged to follow our recommendations.

Sincerely,

Reid H Weingarten
Reid H. Weingarten
Trial Attorney
Public Integrity Section
Criminal Division

Enclosure

A TRUE COPY, I HEREBY CERTIFY.
[illegible] CLERK
By:
Deputy Clerk

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 12

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Hattiesburg Division

UNITED STATES OF AMERICA)
)
v.)
) Crim. No. 84-0009
WILEY FAIRCHILD,)
)
Defendant)

PLEA AGREEMENT

1. The defendant, WILEY FAIRCHILD, will plead guilty to Count I of the indictment (gratuity).

2. The United States will move to dismiss Count II of the indictment (perjury).

3. The United States will make known to the sentencing court any and all cooperation that Wiley Fairchild provides.

4. The United States retains the right to allocute at sentencing.

5. Wiley Fairchild will not be prosecuted by the United States for any offense the facts of which are now known to the United States.

Reid Weingarten
REID WEINGARTEN
Attorney for the United States

BARRY HESS
Attorney for the Defendant

Jan Nielsen Little
JAN NIELSEN LITTLE
Attorney for the United States

Wallace Gunn by
WALLACE GUNN
Attorney for the Defendant

Wiley Fairchild
WILEY FAIRCHILD
Defendant

Dated this 26th day
of November, 1984

A TRUE COPY, I HEREBY [illegible]
Clarence A. [illegible], CLERK
By:

DEFENDANT'S EXHIBIT

United States of America vs.

United States District Court for

SOUTHERN DISTRICT OF MISSISSIPPI

DEFENDANT WILEY FAIRCHILD

DOCKET NO. CR XXXXXXX H84-00009(L)

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date → MONTH DAY YEAR SEPTEMBER 18, 1985

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL RICHARD D. HORNE (Name of counsel)

PLEA

☒ GUILTY, TO COUNT 1 on NOV. 26, 1984 and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDERE,

☐ NOT GUILTY

FINDING & JUDGMENT

There being a finding/~~verdict~~ of

☐ NOT GUILTY. Defendant is discharged

☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of TITLE 18 USC 201(f)

INDICTMENT FOR GRATUITY TO A PUBLIC OFFICIAL

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Two (2) Years, and fined the sum of $10,000.00. Execution of one year and ten months of the sentence is suspended and the defendant is placed on inactive probation for a period of Three (3) years to commence upon release. The Court recommends that defendant serve the two (2) month sentence at the Half Way House in Jackson, Mississippi. It is further Ordered thatexecution of the sentence is suspended until 2:00 PM, September 23, 1985, at which time the defendant is to report to the designated institution.

SPECIAL CONDITIONS OF PROBATION

On motion of counsel for the Government, IT IS ORDERED that the remaining counts are hereby DISMISSED.

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 13

CLERK'S OFFICE

A TRUE COPY

SEP 18 1985

Deputy Clerk, U.S. District

SIGNED BY

☒ U.S. District Judge

☐ U.S. Magistrate

Date SEPT. 18, 1985

Cr. J. Bk. No 4, Page 213.

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
AUG 19 1980
HARVEY G. HENDERSON, CLERK
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

VS. CRIMINAL NO. H80-00005(C)

MALCOLM DAVID NATHAN,
MARIO TORRES AND
KENNETH ROBERT HATFIELD, JR.

GOVERNMENT EXHIBIT 7

The Grand Jury charges:

COUNT I

That MALCOLM DAVID NATHAN, MARIO TORRES and KENNETH ROBERT HATFIELD, JR., defendants herein, on or about July 27, 1980, and continuing through August 4, 1980, in the Hattiesburg Division of the Southern District of Mississippi and elsewhere, knowingly and willfully did combine, conspire, confederate and agree together and with each other and with others known and unknown to the grand jury to commit the following offenses against the United States:

To knowingly and intentionally distribute and possess with intent to distribute marihuana, a Schedule I(c) non-narcotic drug controlled substance, in violation of Section 841(a)(1), Title 21, United States Code;

All in violation of Section 846, Title 21, United States Code.

It was part of the conspiracy that the defendants would knowingly make arrangements to land an aircraft at the Hattiesburg Municipal Airport, Forrest County, Mississippi, on August 4, 1980, on which was situated approximately 2,200 pounds of marihuana, the defendants having made arrangements to offload the marihuana into a waiting truck.

COUNT II

That on or about August 4, 1980, in the Hattiesburg Division of the Southern District of Mississippi, MALCOLM DAVID NATHAN and MARIO TORRES knowingly and intentionally

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 14

did possess with intent to distribute about 2,200 pounds of marihuana, a Schedule I(c) non-narcotic drug controlled substance, in violation of Section 841(a)(1), Title 21, United States Code.

COUNT III

That from on or about August 3, 1980 to August 4, 1980, MALCOLM DAVID NATHAN, MARIO TORRES and KENNETH ROBERT HATFIELD, JR., did travel in interstate commerce from outside the State of Mississippi to and between other states and the State of Mississippi, with the intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment and carrying on of an unlawful activity, the unlawful activity being a business enterprise involving marihuana, a controlled substance, in violation of Sections 841 and 846, Title 21, United States Code, and defendants did thereafter perform and attempt to perform acts to promote, manage, carry on and facilitate the promotion, management and carrying on of the unlawful activity previously described, in violation of Sections 1952(a)(3) and 2, Title 18, United States Code.

UNITED STATES ATTORNEY

A TRUE BILL:

Foreman of the Grand Jury

A TRUE COPY, I HEREBY CERTIFY.
HARVEY G. HENDERSON, CLERK
BY:

Deputy Clerk

Form DJ-195
(Ed. 2-7-66)

No. H80-00005(C)

UNITED STATES DISTRICT **COURT**

SOUTHERN *District of* MISSISSIPPI

HATTIESBURG *Division*

THE UNITED STATES OF AMERICA

vs.

MALCOLM DAVID NATHAN, MARIO TORRES

AND KENNETH ROBERT HATFIELD, JR.

INDICTMENT

Conspiracy to violate Controlled Substances Act, Distributing Controlled Substances and Interstate Travel in Aid of Racketeering Enterprises.

21 U.S.C. 846, 841 and 1952(a)(3)

A true bill,

Cary D. McCoy
Foreman.

Filed ______ *day*

of ______, *A. D. 19*__

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
AUG 19 1980
HARVEY C. HENDERSON, CLERK
BY ______ DEPUTY

______ *Clerk.*

*Bail, $*______

GPO 902-482

UNITED STATES GOVERNMENT
memorandum

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 15

DATE: November 19, 1980

REPLY TO ATTN OF: James B. Tucker
Chief, Criminal Divisio

SUBJECT: Redditt Andrew Fairchil

TO: Hon. William F. Porter
Attorney at Law

MEMORANDUM OF UNDERSTANDING

Drew Fairchild and his attorney, William F. Porter, have been notified that:

If Fairchild cooperates fully with the government concerning all information and, knowledge that he has regarding violations of the Controlled Substances Act (21 U.S.C. 841, et seq.; and all methods of transportation, possessions or distributions of controlled substances, including any interstate violations by any person or association of person, and all exchanges of moneys, controlled substances or any other things of value between any persons, as a result of any aforedescribed transactions;

Thereafter, the government will do the following:

1. Upon a tender of a plea of guilty by Fairchild to felony charges of violating offenses against the United States, whether the charge be by indictment or information, the government will recommend that the Court accept his plea of guilty to the charges and further recommend that the Court sentence Fairchild to a five-year term of imprisonment, suspend execution of the sentence, a fine in the sum of $15,000, and place Fairchild on probation for a period of five years, a special condition of probation being that Fairchild pay the fine forthwith.

It is understood that, as of the date of this memo Fairchild and his attorney have both indicated that he desires to plead guilty to offenses that he has committed against the United States, but that the government reserves the right to unlimited discretion in determining, selecting and describing the offenses committed, the contents and charging part of the indictment or information, and time of filing or presenting charges.

W.F.P.

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

☆U.S. GPO 1977-0-241-530 3089

It is further understood that the Court, in accord with the principles of Rule 11, Federal Rules of Criminal Procedure, is not required to accept the recommendation aforedescribed, and the government has no other obligation than as stated in paragraph No. 1.

It is further understood that this memorandum completely reflects all promises, agreements and conditions made by and between the United States Attorney for the Southern District of Mississippi and Fairchild.

It is further understood that the government can proceed by information only if Fairchild waives his right to indictment by grand jury as provided in Rule 7(b), Federal Rules of Criminal Procedure.

It is further understood that Fairchild will truthfully and completely reveal to the government all incidents and circumstances relating to the matters described in the introductory paragraph. Furthermore, Fairchild's complete cooperation, as indicated in the introductory paragraph includes: (1) Immediate disclosure of the matters to federal agents of the Federal Bureau of Investigation; (2) Testimony before a grand jury, if necessary, in any district deemed appropriate by the government; and (3) Testimony at any trial, if necessary, involving the matters described in the introductory paragraph.

It is further understood that should Fairchild commit any further crimes, this memorandum shall be deemed violated and be subject to prosecution for any federal criminal violation of which this office has knowledge, and that any information provided by him may, if appropriate, be used against him.

It is further understood that should Fairchild fail or refuse as to any part of this memorandum, all representations by the government are rescinded.

It is further understood that no information given by Fairchild in response to this memorandum will be used against him in any criminal case, except as described in paragraph number 1, and except in a prosecution for perjury, and except if he violates any provision of this memorandum, in which events it is specifically understood and agreed that all information given by him, or derivatives thereof, shall be admissible in evidence in any proceedings against him.

W.F.P.

It is further understood that this memorandum cannot bind other federal district, state or local prosecuting authorities; however, this office shall and will, if requested, bring Fairchild's cooperation to the attention of the other prosecuting authorities.

Jackson, Mississippi, this 19 day of November, 1980.

James B Tucker
JAMES B. TUCKER
Chief, Criminal Division

AGREED TO:

REDDITT ANDREW FAIRCHILD,
Defendant

William F. Porter
WILLIAM F. PORTER,
Of Counsel for Defendant

THE STATE OF MISSISSIPPI, FORREST COUNTY

CIRCUIT COURT, July TERM, 19 81

The Grand Jurors for the State of Mississippi, elected, impanelled, sworn and charged, in and for Forrest County, State aforesaid, in the name and by the authority of the said State of Mississippi, upon their oath, present: that Redditt Andrew Fairchild and Robert L. Watkins, In conjunctio with each other beginning on the 27th day of July, 1980 and continuously 19____ until August 4, 1980, in Forrest County aforesaid:

did willfully, unlawfully, and feloniously conspire and agree together to commit a crime, to-wit: possession of more than one (1) kilogram of marijuana with the intent to deliver the same to individuals unknown, contrary to and in violation of the Uniform Controlled Substances Act, as amended,

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 16

STATE OF MISSISSIPPI
COUNTY OF FORREST
I, MARIAN BROWN, Circuit Clerk of Forrest County do hereby certify that the foregoing is a true and correct copy of Indictment as the same appear on record in my office in Book 21 Page 252
Given under My hand and offical seal on this 13 day of June, 1985
Marian Brown
Circuit Clerk
By: Susan Russell D.C.

against the peace and dignity of the State of Mississippi.

L H Mc Cann
Foreman of the Grand Jury.

District Attorney.

No. 10,041

Forrest County, Mississippi

THE STATE OF MISSISSIPPI

vs.

Redditt Andrew Fairchild and
Robert L. Watkins, in conjunction
with each other

CHARGE

Conspiracy

A TRUE BILL:

J H McCann
Foreman of the Grand Jury

WITNESSES

Filed August 26, 1981

Marian Brown
Circuit Clerk

By Helen McBride, D.C.

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

JANUARY TERM 19 82

FILED
JAN 12 1982
Marian Brown
CIRCUIT CLERK

STATE OF MISSISSIPPI

VS. CAUSE NO. 10,041

REDDITT ANDREW FAIRCHILD, DEFENDANT

ENTRY OF GUILTY PLEA

This day into open Court came the District Attorney who prosecutes for the State of Mississippi and came also Redditt Andrew Fairchild, in his own proper person and represented by counsel, Hon. William F. Porter and was lawfully arraigned upon an Indictment lawfully returned by the Grand Jury of Forrest County, Mississippi, charging the said Defendant with the crime of conspiracy, and being duly advised of all his Constitutional rights in the premises and being further advised of the consequences of such a plea, the Defendant did then and there in open Court, after first being duly qualified, enter his plea of guilty to said charge, which plea is accepted by the Court.

Sentence is hereby deferred to the 19th day of March, A. D., 19 82.

SO ORDERED AND ADJUDGED on this the 12th day of January, A. D., 19 82.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 17

⑤

CIRCUIT JUDGE

No. 10,041

Forrest County, Mississippi

THE STATE OF MISSISSIPPI

vs.

Redditt Andrew Fairchild and
Robert L. Watkins, in conjunction
with each other

CHARGE

Conspiracy

A TRUE BILL:

J. H. McCann
Foreman of the Grand Jury

WITNESSES

Filed August 26, 19 81

Dennis Brown
Circuit Clerk

By Helen McBride, D.C.

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

FILED

VERSUS

MAR 19 1982

Marian Brown
CIRCUIT CLERK

CAUSE NUMBER 10,041

REDDITT ANDREW FAIRCHILD

DEFENDANT

ORDER

ON THIS DAY this Cause came on for sentencing, on the State of Mississippi, and the Defendant, by and through his Attorney of Record, the Honorable William Porter, making it known to the Court, that said Defendant has recently undergone a back operation, and is physically unable to attend Court at this term, and respectfully requesting that the matter be set for the July Term for sentencing or at an earlier date if the Defendant has recouperated, and the Court after hearing said Motion, finds that it is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the above styled and numbered matter be. the same is hereby, continued for sentencing until the July Term, 1982.

SO ORDERED AND ADJUDGED on this the 19th day of March, A.D., 1982.

Jack B. Weldy
CIRCUIT COURT JUDGE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 18

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

FILED
Marian Brown
CIRCUIT CLERK

JAN. 25 1982

STATE OF MISSISSIPPI

v. CIVIL ACTION NO. 10,041

REDDIT ANDREW FAIRCHILD DEFENDANT

MOTION TO DEFER SENTENCING

COMES now the Defendant, REDDIT ANDREW FAIRCHILD, and moves for this Honorable Court to defer sentencing until the August, 1982, term of Circuit Court. In support of this Motion, your Defendant would show that he had back surgery recently at Ochsner Medical Center, New Orleans, Louisiana, where the L-4 and L-5 discs were removed on the left side. Defendant has not recovered from surgery and needs additional time before sentencing.

Respectfully submitted,

William F. Porter
BY: WILLIAM F. PORTER, OF COUNSEL

WILLIAM F. PORTER
ATTORNEY AT LAW
P. O. BOX 1469
HATTIESBURG, MS 39401
TELEPHONE: (601) 545-7010

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

FILED

JUN 25 1982

Marian Brown
CIRCUIT CLERK

STATE OF MISSISSIPPI

v. CIVIL ACTION NO. 10,041

REDDIT ANDREW FAIRCHILD DEFENDANT

ORDER

THIS DAY this cause came before the Court on Motion to Defer Sentencing until the August, 1982, term of Circuit Court and the Court after having been fully advised in the premises finds that the Motion is well taken and should be sustained.

IT is, therefore ordered that the Defendant in Civil Action No. 10,041 be brought before this Court for sentencing during the August, 1982, term of Court.

SO ORDERED and ADJUDGED on this, the 25th day of June, A. D., 1982.

CIRCUIT JUDGE

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

FILED

JUL 12 1982

Marian Brown
CIRCUIT CLERK

STATE OF MISSISSIPPI

VERSUS CAUSE NUMBER 10,041

REDDITT ANDREW FAIRCHILD DEFENDANT

ORDER

ON THIS DAY this Cause came on to be heard upon Motion of the Defendant, by and through his attorney of record, the Honorable William Porter, to continue the above styled and numbered matter for sentencing, for the reason that the Defendant has recently undergone surgery and for other health related reasons, and the Court after considering the Defendant's Motion, finds that it is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the above styled and numbered matter is hereby continued for sentencing in the above styled and numbered cause until the next November, 1982 term of Court.

SO ORDERED AND ADJUDGED on this the 12th day of July, A. D., 1982.

Joel H. Welty
CIRCUIT COURT JUDGE

FILED
NOV 15 1982
Marian Brown
CIRCUIT CLERK

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS CAUSE NUMBER 10,041

REDDITT ANDREW FAIRCHILD DEFENDANT

ORDER

ON THIS DAY this Cause came on to be heard upon the Joint Motion, ore tenus, the Defendant, by and through his attorney of record, the Honorable William Porter, and the State of Mississippi, by and through the Office of the District Attorney, to continue the above styled and numbered matter for the Term for sentencing purposes, for the reason that said Defendant is presently having physical problems and, further, the State of Mississippi would also show that the Co-defendant involved here, has been apprehended in the State of Florida, the State of Mississippi expects to extradite him within the foreseeable future, and the Court after considering the same, FINDS that the Defendant would not be prejudiced to continue the matter for sentencing, and the Motion should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the above styled and numbered matter be, the same is hereby, continued.

SO ORDERED AND ADJUDGED on this the 15th day of November, A.D., 1982.

CIRCUIT COURT JUDGE

FILED
JAN 25 1984
Marian Brown
CIRCUIT CLERK

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS

CAUSE NUMBER 10,041

ANDREW REDDITT FAIRCHILD

DEFENDANT

ORDER OF CONTINUANCE

ON THIS DAY this Cause came on to be heard upon Motion of the Defendant, by and through his attorney of record, the Honorable Jolly Matthews, to continue the above styled and numbered Cause and waiving a speedy trial, and the Court having heard and considered said Motion, finds that no prejudice would result to the Defendant because of said continuance and that said Motion should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the above styled and numbered Cause be, the same is hereby, continued for the Term and Defendant has waived his right to a speedy trial for this Term.

SO ORDERED AND ADJUDGED on this the 24th day of January, A.D., 1984.

CIRCUIT COURT JUDGE

STATE OF MISSISSIPPI

COUNSEL FOR DEFENDANT

FILED
MAR 19 1984
Marian Brown
CIRCUIT CLERK

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS CAUSE NUMBER ~~10,030~~ 10,041

REDDITT ANDREW FAIRCHILD DEFENDANT

ORDER OF CONTINUANCE

ON THIS DAY this Cause came on to be heard upon Motion of the Defendant, by and through his attorney of record, the Honorable Carol Ingram, to continue the above styled and numbered Cause and waiving a speedy trial, and the Court having heard and considered said Motion, finds that no prejudice would result to the Defendant because of said continuance and that said Motion should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the above styled and numbered Cause be, the same is hereby, continued for the Term and Defendant has waived his right to a speedy trial for this Term.

SO ORDERED AND ADJUDGED on this the 19th day of March, A.D., 1984.

CIRCUIT COURT JUDGE

STATE OF MISSISSIPPI

James W. Gladden Jr.
COUNSEL FOR DEFENDANT

FILED
JUN 1 1984
CIRCUIT CLERK

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS

CAUSE NUMBER 10,041

REDDETT ANDREW FAIRCHILD

DEFENDANT

ORDER OF CONTINUANCE

ON THIS DAY this Cause came on to be heard upon Motion of the Defendant, by and through his attorney of record, the Honorable Karl Kepper, to continue the above styled and numbered Cause and waiving a speedy trial, and the Court having heard and considered said Motion, finds that no prejudice would result to the Defendant because of said continuance and that said Motion should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the above styled and numbered Cause be, the same is hereby, continued for the Term and Defendant has waived his right to a speedy trial for this Term.

SO ORDERED AND ADJUDGED on this the 1st. day of May, A.D., 1984.

CIRCUIT COURT JUDGE

Glenn L. White
STATE OF MISSISSIPPI

Karl W. Kepper
COUNSEL FOR DEFENDANT

FILED
AUG 3 1984
Marian Brown
CIRCUIT CLERK

IN THE CIRCUIT COURT OF FORREST COUNTY, MI

STATE OF MISSISSIPPI)
VERSUS) CAUSE NUMBER
REDDIT ANDREW FAIRCHILD, Defendant) 10,041

ORDER OF CONTINUANCE

THIS DAY this cause came on to be heard on motion ore tenus for continuance, by defendant, Reddit Andrew Fairchild, by and through his attorney of record, and after the Court having fully heard and considered said motion finds:

That a Federal Grand Jury is in session and is considering matters related to the above cause, and that said cause should be continued until the November, 1984, Term of Circuit Court.

IT IS, THEREFORE, THE ORDER AND JUDGMENT OF THE COURT that the motion to continue for sentencing in the above styled and numbered cause to the November, 1984, Term of Circuit Court should be, and it is hereby, sustained.

DONE, ORDERED AND ADJUDGED, on this the 3rd day of August, A.D., 1984.

CIRCUIT JUDGE

FILED
NOV 28 1984
Marian Brown
CIRCUIT CLERK

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS CAUSE NUMBER 10,041

REDDITT ANDREW FAIRCHILD DEFENDANT

O R D E R

ON THIS DAY this Cause came on to be heard upon the Joint Motion of both the Defendant, by and through the Attorney of Record, Honorable Karl Kepper, and the State of Mississippi, by and through the Office of the District Attorney, to continue the above styled and numbered Cause for sentencing, for the reason that the Defendant's father is due to go on trial the first part of December, 1984, the Federal Government has indicated that the trial may involve dealings with the above styled and numbered Cause, and while the State of Mississippi, has been cooperating with the Federal Government, the State of Mississippi has not been privy to all of the material collected with reference to this investigation, and delaying the Matter for sentencing would enable this Court to have the benefit of all Matter which was introduced at trial, and further that the Defendant would waive any right for a speedy sentencing hearing, and the Court after considering the same, finds that the Motion was well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the above and foregoing Cause is hereby Continued for Sentencing with reference to the Defendant, Reddett Andrew Fairchild until the January, 1985

Term of Court.

SO ORDERED AND ADJUDGED on this the 28th day of November, A.D., 1984.

CIRCUIT COURT JUDGE

APPROVED AS THE FORM:

Glenn L. White
GLENN L. WHITE
DISTRICT ATTORNEY

Karl Kepper
KARL KEPPER
ATTORNEY FOR DEFENDANT

FILED
DEC 27 1982
Marian Brown
CIRCUIT CLERK

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS

CAUSE NUMBER 10,041

DREW FAIRCHILD

DEFENDANT

O R D E R

ON THIS DAY this Cause came on to be heard upon the Motion of the State of Mississippi, ore tenus, to pass the above styled and numbered Matter to the files as pertains to the Defendant, Drew Fairchild, for the reasons that said Defendant has been awaiting sentencing for a number of months, that said Co-defendant in the above styled and numbered Matter has been a fugitive from justice, and was apprehended in the State of Texas and also in the State of Florida; nevertheless, the State of Mississippi, despite its diligent efforts to obtain the body of Co-defendant, it has been unable to return him to the State of Mississippi to await trial. State would further show that the Co-defendant was a pilot which was actually flying the aircraft involved with controlled substances, and would further show the Court that Drew Fairchild has agreed to cooperate with the State of Mississippi, in its efforts to prosecute the pilot and testify if necessary, and further the State of Mississippi, has been made aware that he has cooperated with the Mississippi Bureau of Narcotics and supposedly the Federal government concerning this investigation and was not indicted by the Federal government for his role although all other parties besides Drew Fairchild or the pilot were indicted by the Federal government and the State of

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT 19

Mississippi, would ask that this Matter be passed to the files at this time so that the Defendant's right to a speedy trial, sentence within reasonable time, and/or any due process of law rights will not be violated as to the Defendant, Drew Fairchild, and the Court after considering the same based upon the above and foregoing reasons, finds that said Matter is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the above styled and numbered Matter be, the same is hereby, passed to the files at this time based upon the foregoing reasons.

SO ORDERED AND ADJUDGED on this the 23rd day of December, A.D., 1982.

CIRCUIT COURT JUDGE

STATE OF MISSISSIPPI
COUNTY OF FORREST

I, MARIAN BROWN, Circuit Clerk of Forrest County do hereby certify that the foregoing is a true and correct copy of Order - Passing to files as the same appear on record in my office in Book 58 Page 84-85

Given under My hand and offical seal on this 13th day of June, 1985

Marian Brown
Circuit Clerk
By: Susi Russell DC

DEFENDANT'S EXHIBIT 7

FILED JAN 26 1983 Marian Brown CIRCUIT CLERK

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 20

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS CAUSE NUMBER 10,041

ANDREW FAIRCHILD DEFENDANT

MOTION

COMES NOW, the State of Mississippi, by and through the Office of the District Attorney, moved to reinstate the charges and complete file of the Defendant, Andrew Fairchild, in the above styled and numbered Cause and would show in support thereof:

I

That the Defendant, Andrew Fairchild, entered a plea of Guilty to the charge in January, 1982 and has been awaiting sentence since that period of time.

II

Subsequently, the State of Mississippi, passed the Matter to the files for the reason that the Co-defendant in the case was never apprehended and brought back to the jurisdiction of the State of Mississippi, although he had been arrested twice.

III

The State of Mississippi did not desire to sentence the Defendant, Andrew Fairchild, for the reason that he had indicated a willingness to testify and cooperate with the State of Mississippi in the prosecution of Co-defendant.

IV

That in order to avoid any constitutional problems, affording the Defendant his right to a speedy trial, disposition, and/or due process of law according to the Fourteenth Amendment in a Constitutional Standards, the State of Mississippi requested that the Matter be passed to the files in December of 1982.

V

And since that time, the Co-defendant, Robert Watkins, has returned to the State of Mississippi and is under the jurisdiction of the Courts in the State of Mississippi and, therefore, the State feels the interest of Justice would dictate that this Matter be reinstated upon the active docket of the Circuit Court of Forrest County, Mississippi.

RESPECTIVELY submitted on this the 26th day of January, A.D., 1983.

DISTRICT ATTORNEY

FILED
JAN 26 1983
Marian Brown
CIRCUIT CLERK

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS

CAUSE NUMBER 10,041

ANDREW FAIRCHILD

DEFENDANT

ORDER

ON THIS DAY this Cause came on to be heard upon Motion of the State of Mississippi, to reinstate on the active docket the file against Andrew Fairchild, for the reason that the Co-defendant is now returned to the jurisdiction of the State of Mississippi, and the State of Mississippi is desirous of having a disposition of the Defendant, Andrew Fairchild, and the Court considering the fact that the Matter was passed to the files in December, 1982 after the Defendant had previously entered a plea in January of 1982 to avoid any constitutional due process of law problems with the Defendant not being sentenced within that period of time, due to the fact that State of Mississippi indicated that he would testify in trial against this Co-defendant. The Court finds that the Matter should be reinstated on the active docket and, therefore, orders that the case against Drew Fairchild in the entire file be placed upon the active docket in the Circuit Court of Forrest County, Mississippi, for disposition in the March 1983 Term, or a subsequent term of court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the Clerk of the Circuit Court of Forrest County, Mississippi, is hereby directed to place upon the active docket the previous Matter which is passed to the files pertaining to Andrew Fairchild in the above styled and numbered Cause

SO ORDERED AND ADJUDGED on this the 26th day of January, A.D., 1983.

L. McKenzie

CIRCUIT COURT JUDGE

MAY
13
THURSDAY

MAY 1982

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JUNE 1982

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MAY
14
FRIDAY

J. A. Baker ✓

	Thursday, May 13		Friday, May 14
8:00	Bank of H'burg ✓	8:00	
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B 2:00	Chalmers Davis ✓	2:00	
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B 3:15	Ziger ✓	3:15	
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B 4:00	Carroll Ingram ✓	4:00	
B 4:15	Judge Nixon ✓	4:15	
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United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 21

JUNE
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THURSDAY

JUNE 1982

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	9:00		B	9:00	Sidney Berry case ✓
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B	9:30	Jim Dukes ✓		9:30	
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21-914 268

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Gary Morgan

OCTOBER 1982

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NOVEMBER 1982

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B 2:30 Sol Pevsner ✓
B 2:45 Carroll Ingram ✓
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B 3:15 Don Medley ✓
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M 3:45 Emmons ✓
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B 4:30 Fatima Sandwidge ✓
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B 5:00 Judge Nixon ✓
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21-914 270

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B 10:15 Don Medley ✓
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J 12:00 Garden Club ✓
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M 1:00 Dr. Bradley ✓
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B 2:00 Raymond Howell ✓
B 2:15 George Gent ✓
B 2:30 Rex Jones ✓
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The State of Mississippi,
Hinds County

By Virtue of A License

from the Clerk of the Circuit Court of said County of Hinds I have this day celebrated the Rites of Matrimony between

Mr. Gary Errol Turner and

Miss Erin Gayle Wallace

Given under my hand, this the 15 day of May A. D. 1982

(Seal.)

(NAME AND OFFICIAL POSITION)

129-344

(Detach this certificate from License and return to Circuit Clerk.)

o be valid, application for marriage license must be made within 30 days after date of blood test as shown above.)

ate of Application: 5-8-82
Issue: 5-11-82

Recorded: Book 129 Page 344

(Signature of circuit clerk)

ounty:

2

ate Board of Health 7-1-58 Form No. 162

ATTEST A TRUE COPY
This 31 day of Jan 1986
BARBARA DUNN, Circuit Clerk
By _____ D. C.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 22

FILED
MAR [illegible] 1985

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Hattiesburg Division

UNITED STATES OF AMERICA)
) CR. No. H85-0000 4
v.) Violations 18 U.S.C. §1503
) (Obstruction of Justice);
PAUL H. "BUD" HOLMES) 18 U.S.C. §1623 (Perjury)

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 23

INDICTMENT

The Grand Jury charges:

COUNT I

1. At all times material to this Indictment:

(a) The Defendant, PAUL H. "BUD" HOLMES, was an attorney in Hattiesburg, Mississippi and from January 1980, until January 1984, he served as the District Attorney for Mississippi's 12th District and had his office in Hattiesburg, Mississippi.

(b) Walter Nixon was a United States District Court Judge in the Southern District of Mississippi.

(c) Wiley Fairchild was a businessman living in Hattiesburg, Mississippi.

(d) Drew Fairchild was Wiley Fairchild's son and was implicated in a drug smuggling arrest that occurred at the Hattiesburg airport on August 4, 1980.

2. From July 10, 1984, through March 1985, the federal grand jury empaneled in Forrest County in the Hattiesburg Division of the Southern District of Mississippi was conducting an investigation into allegations of official corruption in the

Southern District of Mississippi and as part of that investigation was examining, among other things, a) the circumstances of the transfer of mineral royalty interests from Wiley Fairchild to Judge Nixon and b) the handling of the smuggling case involving Drew Fairchild by the Defendant, PAUL H. "BUD" HOLMES, then the District Attorney for Mississippi's 12th Judicial District.

3. It was material to the grand jury's investigation to determine whether the Defendant, PAUL H. "BUD" HOLMES, improperly manipulated Drew Fairchild's case as a result of his relationships with Judge Nixon and Wiley Fairchild.

4. It was material to the grand jury's investigation to determine:

(a) whether or not the Defendant, PAUL H. "BUD" HOLMES, discussed the drug case involving Drew Fairchild with Wiley Fairchild;

(b) whether or not the Defendant, PAUL H. "BUD" HOLMES, discussed his handling of the drug case involving Drew Fairchild with Judge Nixon after Judge Nixon received mineral royalty interests from Wiley Fairchild; and

(c) whether or not Judge Nixon discussed the drug case involving Drew Fairchild with Wiley Fairchild after Judge Nixon received mineral royalty interests from Wiley Fairchild.

5. From on or about July 18, 1984, and continuing through March 1985, in the Southern District of Mississippi, the Defendant, PAUL H. "BUD" HOLMES, acting unlawfully, willfully and nowingly, did corruptly influence, obstruct and impede and did endeavor to influence, obstruct and impede the due administration

V

MARRIAGE LICENSE RECORD

1

STATE OF MISSISSIPPI,
County of Hinds, 1st District

APPLICATION FOR MARRIAGE LICENSE IN MISSISSIPPI

MALE APPLICANT

Name Gary Errol Turner

Race white Age 29 Date of Birth 9-29-52 Evidenced by dl Where Born La

Residence 1000 Lakeshore Dr No 59 State Ms County Hinds City Jackson

Number of Previous Marriages 1 Last Marriage ended by divorce Date ended 4-unk-72

Education (Highest level completed) Elementary or High School College 4

Father's Full Name Gamliel Earl Turner Address 710 Wiggins Cir Pascagoula Ms

Mother's Full Name Lucille Christine Edwards same

Blood Test by: Date /16/82

FEMALE APPLICANT

Present Name Erin Gayle Wallace Maiden Wallace

Race white Age 23 Date of Birth 3-10-59 Evidenced by dl Where Born W.V.

Residence 1000 Lakeshore Dr State Ms County Hinds City Jackson

Number of Previous Marriages 0 Last Marriage ended by Date ended

Education (Highest level completed) Elementary or High School College 2

Father's Full Name Alton Hamric Wallace Address 364 Rt 1 Mansfield La

Mother's Full Name Patsy Gayle Lockett same

Blood Test by: Date 5/16/82

STATE OF MISSISSIPPI,
County of Hinds, 1st District

Personally appeared before me the undersigned authority in and for said County and State, the above named male and female applicant, who state on their oath that the matters and things stated therein are true and correct, and that at no time within one year prior thereto has either applicant been prohibited from marrying by co [illegible] rder.

Male Applicant Sworn to and subscribed before me, this the 4th day of

STATE OF MISSISSIPPI,
County of Hinds, 1st District
To the Circuit Clerk of Hinds County, Mississippi:

AFFIDAVIT OF PARENTS, GUARDIAN OR OTHER PERSONS AS TO AGE OF APPLICANTS FOR MARRIAGE LICENSE IN MISSISSIPPI

We, the undersigned, being first duly sworn, make oath (or affirm) that ______ Address ______ is ______ years of age; and that ______ Address ______ is ______ years of age; and that said parties are making application for issuance of Marriage License to which application this affidavit is attached.

We, hereby give our consent to the marriage of the above named applicants and the Circuit Clerk is hereby directed to issue license as requested.

Signed ______ ______ Relation to male applicant

Signed ______ ______ Relation to female applicant

Sworn to and subscribed before me, this the ______ day of ______, A. D., 19____

By ______ D/C. Official Title ______

STATE OF MISSISSIPPI,
County of Hinds, 1st District

NOTICE TO PARENTS, GUARDIAN OR NEXT OF KIN OF APPLICATION FOR MARRIAGE LICENSE

To:
______ Address ______
______ Address ______

Date sent by certified mail ______ Date Return Receipt Received ______

By ______ D. C. Wm. E. "Bill" McKINLEY, Circuit Clerk

STATE OF MISSISSIPPI,
County of Hinds, 1st District

MARRIAGE LICENSE AND CERTIFICATE

This is to certify that a valid Marriage License was issued to the above named applicants on this date May 11 1982

By ______ D. C. Wm. E. "Bill" McKINLEY, Circuit Clerk

STATE OF MISSISSIPPI,
County of Hinds, 1st District

This is to certify that I have received and is the returned certificate of marriage showing that by virtue of the above license a marriage ceremony was performed on the 15 day of May 1982 at City Ridgeland County Madison

State Miss. By [illegible] Title Minister

Date 5-19-82 Filed by [illegible] D. C. Wm. E. "Bill" McKINLEY, Circuit Clerk

Order of the Judge of the ______ Court:

of justice, in that during the aforesaid period of time the Defendant, PAUL H. "BUD" HOLMES, prevented and endeavored to prevent the grand jury from learning about a telephone call made in the latter part of 1982 from the farm of the Defendant, PAUL H. "BUD" HOLMES, to Wiley Fairchild wherein Judge Nixon and the Defendant, PAUL H. "BUD" HOLMES, assured Wiley Fairchild that his son's drug case would be resolved to Wiley Fairchild's satisfaction by the Defendant, PAUL H. "BUD" HOLMES. In this regard, the Defendant, PAUL H. "BUD" HOLMES:

(a) inquired of others whether they had discussed the aforementioned telephone call with federal authorities so as to be able to tailor his own grand jury testimony;

(b) testified falsely in the grand jury on July 20, 1984, that he had no contact with Wiley Fairchild about the drug smuggling case involving Drew Fairchild after Drew Fairchild was indicted in August 1981;

(c) testified falsely in the grand jury on February 21, 1985 that the reason he did not advise the grand jury about the aforementioned telephone call previously was that "it did not come across my mind . . ." and he "didn't put any significance . . . to it;"

(d) refused to disclose the substance of the aforementioned telephone call when on February 21, 1985, he falsely testified before the grand jury that he could not remember what was said during the call; and

(e) sought to influence a witness, whom he knew was to testify in the grand jury about the aforementioned call, to testify in a way that would be favorable to the Defendant, PAUL H. "BUD" HOLMES;

with all said acts done by the Defendant, PAUL H. "BUD" HOLMES, to manipulate and interfere with the grand jury investigation by preventing the grand jury from receiving relevant evidence.

In violation of Title 18, United States Code, Section 1503.

COUNT II

1. Paragraphs one through three of Count One of the Indictment are herein realleged and incorporated as if set forth in full herein.

2. On or about July 20, 1984, in Forrest County in the Hattiesburg Division of the Southern District of Mississippi, the Defendant, PAUL H. "BUD" HOLMES, having duly taken an oath that he would testify truthfully in proceedings before a grand jury of the United States, did knowingly and contrary to said oath make false material declarations as hereinafter set forth.

3. It was material to the grand jury's investigation described in paragraph two of Count One to determine whether the Defendant, PAUL H. "BUD" HOLMES, met with Drew Fairchild, soon after the drug arrest at the Hattiesburg airport on August 4, 1980 and while the case was being handled by federal authorities, and sought to

(a) influence the outcome of Drew Fairchild's case; and

(b) find out how much money Drew Fairchild had at his disposal for payments in the case.

4. At the time and place set forth in paragraph two of this Count, the Defendant, PAUL H. "BUD" HOLMES, appearing as a witness under oath before the grand jury, was asked the following questions and gave the following answers, knowing the underscored material declarations to be false:

Q. Did you have a conversation with Drew Fairchild soon after the bust about this subject?

A. Never.

Q. Did Drew come to your office?

A. Yes, sir, after I indicted him.

Q. No, I'm talking about before then.

A. No.

Q. Are you sure?

A. Positive.

Q. Think back. Between the bust and the time you indicted him?

A. No, sir. The reason I say when--because after you and I talked, I have, and kept--be frank, I didn't know it, but we have at the district attorney's office a list-- as a matter of fact I brought the thing with me today-- of everybody that comes to the district attorney's office, a daily, you know, calendar. And I went back and searched it, and he came in there on August the, I believe, 27th of 1981, which was after the indictment. That's the only time I've ever seen him.

Q. Okay. That's your testimony? You didn't--

A. Yes, sir.

Q. Okay.

A. No, sir, he just didn't.

Q. So we're clear--

A. He just didn't. I mean, I don't--

Q. All right. I don't want to-- I'll ask one more time. Between the time of the bust on August 4th and the time he was indicted one year later, did you have occasion to meet with him in your office or outside your office?

A. No, sir. Now, let me say this. I have absolutely no recollection of any meeting with him. Bill Porter was with him somewhere or, you know, I bumped into-- you know, I fly out of the airport all the time out there. I don't recall seeing him out there. I don't recall. The only independent recollection I ever remember of Drew Fairchild was he called, wanted to make an appointment. He came up to my office and I had Katy Madison, who I turned the case over to her for management, meet with him.

Q. That's after the indictment?

A. That's after the indictment. I have no independent recollection whatsoever of ever seeing him before that.

Q. I will ask-- assuming that's your answer, I will ask one more question and see if that jogs your memory.

Did you ever discuss money with Drew Fairchild prior-- money and the smuggling case prior to the indictment?

A. Never.

5. The underscored segments of material declarations made under oath before the grand jury by the Defendant, PAUL H. "BUD" HOLMES, as set forth in paragraph four, as the Defendant, PAUL H. "BUD" HOLMES, then and there well knew, were false in that (1) the Defendant, PAUL H. "BUD" HOLMES, did meet with Drew Fairchild

soon after the drug arrest and before his state indictment and (2) during that meeting the Defendant, PAUL H. "BUD" HOLMES, did ask Drew Fairchild if he had any money for the case.

In violation of Title 18 United States Code, Section 1623.

COUNT III

1. Paragraphs one through three of Count One of the Indictment are herein realleged and incorporated as if set forth in full herein.

2. On or about September 5, 1984, in Forrest County in the Hattiesburg Division of the Southern District of Mississippi, the Defendant, PAUL H. "BUD" HOLMES, having duly taken an oath that he would testify truthfully in proceedings before a grand jury of the United States, did knowingly and contrary to said oath make false material declarations as hereinafter set forth.

3. It was material to the grand jury's investigation described in paragraph two of Count One to determine whether the Defendant, PAUL H. "BUD" HOLMES, sought to take over Drew Fairchild's case while it was being handled by federal authorities so as to be able to manipulate improperly the outcome of that case.

4. At the time and place set forth in paragraph two of this Count, the Defendant, PAUL H. "BUD" HOLMES, appearing as a witness under oath before the grand jury, was asked the following questions and gave the following answers, knowing the underscored declarations to be false:

Q. . . . Why, in a succint way, but why did you seek the case from the Feds when you did?

A. Why did I "seek" it?

Q. Yes.

A. I never did "seek" it.

Q. Well, you made a telephone call to George Phillips.

A. To ask him what ever happened on it, because he had presented it to my own Grand Jury, you know, "What did you all do?"

In other words, "Did you sentence him, with Watkins, is your C.I., you know, what is the situation on it."

Q. Did you ever reach out specifically and want that case?

A. Oh, no, sir. No, sir. As a matter of fact, with Mr. Fairchild being in Hattiesburg and everything, the last thing you wanted to do was in get into something like that.

5. The underscored segments of material declarations made under oath before the grand jury by the Defendant, PAUL H. "BUD" HOLMES, as set forth in paragraph four, as the Defendant, PAUL H. "BUD" HOLMES, then and there well knew, were false in that the Defendant, PAUL H. "BUD" HOLMES, did reach out and seek to take control of the Drew Fairchild case from the U.S. Attorney's office in Jackson, Mississippi and from the Mississippi Bureau of Narcotics agents who were working with the federal authorities on the Drew Fairchild case.

In violation of Title 18 United States Code, Section §1623.

COUNT IV

1. Subparagraphs 1(a) and (b) of Count One of the Indictment are herein realleged and incorporated as if set forth in full herein.

2. At all times material to this Indictment Bill Burgin was formerly a member of the Mississippi State Senate who had been indicted in federal court and went to trial with Judge Nixon presiding.

3. On or about February 21, 1985, in Forrest County in the Hattiesburg Division of the Southern District of Mississippi, the Defendant, PAUL H. "BUD" HOLMES, having duly taken an oath that he would testify truthfully in proceedings before a grand jury of the United States, did knowingly and contrary to said oath make false material declarations as hereinafter set forth.

4. At the time and place set forth in paragraph three of this Count, the Grand Jury of the United States District Court for the Southern District of Mississippi was conducting an investigation into allegations of official corruption in the Southern District of Mississippi and was considering whether the Defendant, PAUL H. "BUD" HOLMES, had sought to improperly receive money from litigants who had cases before Judge Nixon.

5. It was material to the grand jury's investigation described in paragraph four of this Count to determine whether the Defendant, PAUL H. "BUD" HOLMES, ever contacted Bill Burgin, then a defendant in a criminal case before Judge Nixon, and had conversations with Burgin about how the Defendant, PAUL H. "BUD" HOLMES, could have Burgin's case "fixed" with the payment of cash to Judge Nixon.

6. It was material to the grand jury investigation described in paragraph four of this Count to determine whether, during conversations between the Defendant, PAUL H. "BUD" HOLMES, and Bill Burgin, the Defendant, PAUL H. "BUD" HOLMES, sought to satisfy Burgin that they could have conversations about illegally "fixing" Burgin's case without being overheard.

7. At the time and place set forth in paragraph three of this Count, the Defendant, PAUL H. "BUD" HOLMES, appearing as a witness under oath before the grand jury, was asked the following questions and gave the following answers, knowing the underscored material declarations to be false:

> Q. Are you saying that Bergen [sic] solicited you to commit bribery?
>
> A. In my opinion that's what he was doing.
>
> Q. Did you ever report that?
>
> A. No, sir. He never did come out and say to do this or do that. He'd say something like, "I've got a big damage suit that I want to associate you in and you can make a lot of money. All I want you to do is come down and be around the courthouse and do this and do that during the trial." And so forth.
>
> Q. Well, how would that be effective for him?
>
> A. Pardon?
>
> Q. How would that be effective for him?
>
> A. Just quite frankly, he thought that I could influence the Court. That was his purpose.
>
> Q. And that would be Judge Nixon.
>
> A. Judge Nixon.

Q. Where did these conversations take place?

A. At my office.

Q. Did you ever have conversations with him at your farm?

A. I did.

Q. Did you or he ever express concern that you were being wired?

A. I took him out there -- no, no. I told him, I said, "Bill, -- you see, I knew Bill -- And I said, "Bill, let me give you some advice. From this day forward, you can expect that whoever you talk to is going to be wired. I'm not wired. I just want you to know that right now." I said, "Get ready for the defense." I said, "I want to give you some advice — friendly advice." And then I told him that.

Q. Did you go to any special lengths to prove that you weren't wired?

A. Yes, sir.

Q. What did you do?

A. I took off my clothes.

Q. Why did you feel it was necessary to do that?

A. To be frank with you, I was just trying to make an impression on him.

Q. What would that --

A. I said, "Bill, I just want you to see something." So I took my clothes off and got down to my shorts and I said, "See. You think I'm crazy." But I said, "From this day forward, unless somebody is willing to do that, you just assume that they are wired."

Q. Why was he to assume that his lawyer to be would have been wired?

A. Well, he didn't. I just did it to make an impression.

Q. Isn't it true that you did it because you expected that there were going to be criminal conversations coming?

A. No. No. No. No.

Q. Did you ever indicate to Mr. Bergen [sic] that you would help him, that there would be no fee for you, but that he would have to pay gambling money for Judge Nixon?

A. No, sir.

8. The underscored segments of material declarations made under oath before the grand jury by the Defendant, PAUL H. "BUD" HOLMES, as set forth in paragraph seven of this Count, as the Defendant, PAUL H. "BUD" HOLMES, then and there well knew, were false in that (1) the Defendant, PAUL H. "BUD" HOLMES, had sought o assure Bill Burgin that he was not "wired" so as to make Burgin more receptive to criminal conversations about "fixing" Burgin's case before Judge Nixon; and (2) the Defendant, PAUL H. "BUD" HOLMES, had indicated to Burgin that he could "fix" his case before Judge Nixon by giving Judge Nixon gambling money.

In violation of Title 18 United States Code, Section §1623.

COUNT V

1. Subparagraphs 1(a) and (b) of Count One of the Indictment are herein realleged and incorporated as if set forth in full herein.

2. On or about February 21, 1985, in Forrest County in the ttiesburg Division of the Southern District of Mississippi, the Defendant, PAUL H. "BUD" HOLMES, having duly taken an oath that

he would testify truthfully in proceedings before a grand jury of the United States, did knowingly and contrary to said oath make false material declarations as hereinafter set forth.

3. At the time and place set forth in paragraph two of this Count, the Grand Jury of the United States District Court for the Southern District of Mississippi was conducting an investigation into allegations of official corruption in the Southern District of Mississippi and was considering whether or not the Defendant, PAUL H. "BUD" HOLMES, had sought to improperly influence litigants and their attorneys who had cases before Judge Nixon.

4. It was material to the grand jury's investigation described in paragraph three of this Count to determine whether the Defendant, PAUL H. "BUD" HOLMES, ever contacted a lawyer who was litigating a civil lawsuit before Judge Nixon and advised that lawyer that if he engaged in a financial transaction that would be of personal benefit to Judge Nixon he would receive a favorable verdict from Judge Nixon.

5. At the time and place set forth in paragraph two of this Count, the Defendant, PAUL H. "BUD" HOLMES, appearing as a witness under oath before the grand jury, was asked the following questions and gave the following answers, knowing the underscored material declarations to be false:

> Q. First let me ask you, do you have any knowledge that Judge Nixon owns a building on the coast in Biloxi or Gulfport?
>
> A. He owns where his law office used to be.
>
> Q. Does he still own that building?
>
> A. I don't know.

Q. Has he ever been desirous of selling that building?

A. Yes, sir. He has.

Q. Have you ever assisted him in selling that building?

A. One time I know that the people that Carroll -- whichever one of the loan companies -- was moving to the Coast and I told him that Judge Nixon had a building that he'd been trying to sell.

Q. Did you ever make any other effort —

A. Not to my knowledge.

Q. -- to assist Judge Nixon?

A. No, sir.

Q. Did you ever contact an attorney with a case before Judge Nixon and encourage him to buy Judge Nixon's building?

A. No, sir.

Q. Did you ever tell an attorney with a civil case -- plaintiff's lawyer — that had a civil case before Judge Nixon that if he bought Judge Nixon's building, that would help him get a larger verdict?

A. No.

Q. Are you sure about that?

A. If you'll name the place and time. I have absolutely no recollection of such a conversation.

Q. Is it fair to say that if you ever made such a statement to a lawyer who had a case before Judge Nixon, that you would remember it?

A. I think I would, unless I said it as a joke, you know, I could have said something in jest or something like that, but I have absolutely no independent recollection of such a statement.

5. The underscored segments of material declarations made under oath before the grand jury by the Defendant, PAUL H. "BUD" HOLMES, as set forth in paragraph four of this count, as the Defendant, PAUL H. "BUD" HOLMES, then and there well knew and believed, were false in that the Defendant, PAUL H. "BUD" HOLMES, (1) did contact attorney Leonard Melvin of Laurel, Mississippi who had a civil lawsuit before Judge Nixon and encouraged Mr. Melvin to buy a building owned by Judge Nixon; and (2) did represent to attorney Leonard Melvin that if he bought Judge Nixon's building such action would help him receive a larger verdict from Judge Nixon in his lawsuit.

In violation of Title 18 United States Code, Section §1623.

A TRUE BILL:

David M. Ward, Jr.
FOREMAN

Reid H Weingarten
REID H. WEINGARTEN

Trial Attorney
Public Integrity Section
Criminal Division
Department of Justice
Washington, D.C. 20530
(202) 724-6974

No. ----------

UNITED STATES DISTRICT COURT

SOUTHERN District of MISSISSIPPI

Hattiesburg Division

THE UNITED STATES OF AMERICA

vs.

PAUL H. "BUD" HOLMES

INDICTMENT

Violations Charged:

18 U.S.C. §1503
18 U.S.C. §1623

A true bill.

David M. Ward, Jr.
Foreman.

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
MAR 29 1985
CLARENCE E. PIERCE, CLERK
BY ________ DEPUTY

Filed in open court this ---------- day

of ---------- A.D. 19 ----

---------- Clerk

Bail. $ ----------

June 18, 1985

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 24

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Hattiesburg Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	CR No. H85-00004
	)	
PAUL H. "BUD" HOLMES,	)	
Defendant.	)	

PLEA AGREEMENT

The undersigned have agreed as follows:

1. The Defendant, PAUL H. "BUD" HOLMES, will plead guilty to the crime of contempt, in violation of Title 18, United States Code, Section 401(1).

2. The United States retains the right to allocute at sentencing.

3. The Defendant, PAUL H. "BUD" HOLMES, will provide complete cooperation to the United States; that is, he will provide complete and truthful evidence and testimony to the United States at interviews, before the grand jury, and at trial.

4. The Defendant, PAUL H. "BUD" HOLMES, agrees that any representation he makes during his cooperation can be tested by the United States with a polygraph examination.

5. The United States will make known to the sentencing court any and all cooperation that the Defendant, PAUL H. "BUD" HOLMES, provides.

6. The United States will move to dismiss the indictment pending against the Defendant, PAUL H. "BUD" HOLMES, in the above-captioned case.

7. The Defendant, PAUL H. "BUD" HOLMES, will not be prosecuted by the United States for any offense the facts of which are now known to the United States.

8. The United States retains the right to prosecute the Defendant, PAUL H. "BUD" HOLMES, for perjury with regard to any future testimony given by the Defendant, PAUL H. "BUD" HOLMES.

9. Pursuant to Rule 11(e)(1)(B) PHH RHW of the Federal Rules of Criminal Procedure, the United States and the Defendant, PAUL H. "BUD" HOLMES, agree that should the Court decide to impose a term of imprisonment, a sentence of no more than one year's imprisonment would be an appropriate disposition of the case.

REID H. WEINGARTEN
Attorney for the United States

JAN NIELSEN LITTLE
Attorney for the United States

JAMES K. DUKES
Attorney for the Defendant

MAURICE DANTIN
Attorney for the Defendant

ROBERT F. DRAKE
Attorney for the Defendant

PATRICK FANNING
Attorney for the Defendant

UNE 18, 1985

PAUL H. "BUD" HOLMES
Defendant

A TRUE COPY, I HEREBY CERTIFY.
Clarence A. Pierce, CLERK
By:
Deputy Clerk

United States of America vs.

United States District Court for

DEFENDANT	PAUL H. "BUF" HOLMES
	SOUTHERN DISTRICT OF MISSISSIPPI
	DOCKET NO. H85-00004

US
EASTERN

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date → MONTH DAY YEAR DECEMBER 11, 1985

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL PATRICK FANNING AND JAMES DUKES
(Name of counsel)

PLEA

☒ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ NOLO CONTENDERE, ☐ NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of ☐ NOT GUILTY. Defendant is discharged
☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of VIO: 18 USC 401(1)

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 25

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) year and fined the sum of $10,000.00.

SPECIAL CONDITIONS OF PROBATION

IT IS FURTHER ORDERED that pursuant to Title 18 USC, Sec. 3013, special assessment of $50.00 is imposed.

On motion of counsel for the Government, IT IS ORDERED that the original indictment is hereby DISMISSED.

Execution of the sentence is suspended until February 18, 1985 at 3:00 PM, at which time the defendant is to report to the designated institution.

The Court recommends that the defendant be incarcerated at either Maxwell Airforce Base or Eglin Airforce Base. Because defendant is a former law enforcement officer, this Court is to be notified in the event these facilities are not available.

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

CLERK'S OFFICE
COPY
DEC 1985
B. Perkins

SIGNED BY
☒ U.S. District Judge
☐ U.S. Magistrate

Ca T No. 4. [illegible]

Date Dec. 11, 1985

IN THE SENATE OF THE UNITED STATES
Sitting as a Court of Impeachment

In re)
)
IMPEACHMENT OF)
WALTER L. NIXON, JR.)

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 26

House of Representatives' Exhibit 26--Excerpts from Prior Sworn Trial and Subcommittee Testimony of Judge Nixon

Excerpt No. 1

1. Q. (by Judge Nixon's counsel) I want to come back. You have heard Bud Holmes testimony under oath concerning your presence in Hattiesburg this city on May 14th, 1982 am I correct?

A. (by Judge Nixon). Yes, you're correct.

Q. Now that's the date he attributed this conversation to you; am I right?

A. Right.

Q. First of all, were you in Hattiesburg for one minute on that day?

A. No.

Q. Where were you?

A. I was in Biloxi.

(Nixon Trial Testimony, TR 1547-48)

Q. (by Judge Nixon's counsel) What did you do for the balance of that day [May 14, 1982], what's your best recollection?

A. (by Judge Nixon) My best recollection is I prepared for the trial of that asbestos case that was beginning Monday. Read the pretrial order again, went over proposed jury instructions, read some of the depositions with respect to the motions that I had to decide, the admissibility of certain evidence and what have you.

Q. That took place, where were you?

A. In Biloxi, in my chambers.

(Nixon Trial Testimony, TR 1554)

Q. (by Judge Nixon's counsel) In any event, as you sit on the stand, are you positive that you did not come to Hattiesburg that day [May 14, 1982]?

A. (by Judge Nixon) Yes.

Q. Where did you spend the entire day?

A. In my chambers in Biloxi.

(Nixon Trial Testimony, TR 1556)

Excerpt No. 2

Q. (by Judge Nixon's counsel) While you were in there [appearing before the grand jury], did you in fact were you aware of the fact that there had been a discussion between you, excuse me, there was a meeting where you were over at Wiley's office and then you had been at Bud's farm that evening and the phone call. Were you aware of that when you were in the grand jury?

A. (by Judge Nixon) Yes.

(Nixon Trial Testimony, TR 1585-1586)

Q. (by Judge Nixon's counsel) Now at the time you gave that interview with Mr. Weingarten--and this is April of 1984--were you aware, at some level, that you had had this previous conversation you have described in March of 1983 with Mr. Fairchild concerning his blackmail allegation?

A. (by Judge Nixon) Well, of course I knew it had occurred. It was, I am sure, in my recollect, but it wasn't foremost of course in my mind.

(Nixon Subcommittee Testimony, Serial No. 96 at 443).

Excerpt No. 3

Q. (by Judge Nixon's counsel) Now, did there come a time not too shortly after that when Mr. Fairchild mentioned his son to you?

A. (by Judge Nixon) Yes.

(Nixon Subcommittee Testimony, Serial No. 96 at 432)

Q. (by Judge Nixon's counsel) Then what happened [in the meeting with Wiley Fairchild]?

A. (by Judge Nixon) He [Wiley Fairchild] said, "Judge, you are a good man. You have got a good reputation. I am mad as hell about something." He said, "I have got a son named Drew, and he is involved in a drug matter at the Hattiesburg Airport." I said, "Yes, I just read something recently in the newspaper about it.

And he said "Well, he has given me trouble all his life." He said, "I do not give a damn what happens to him. I think he has got a pretty good deal," he said, "but I am tired"--"I am not asking you to do anything for Drew. I am not asking anything for Drew. But I have got a good name, good reputation, and it is being drug through the mud by the news media." And he said, "I believe I am being blackmailed by "Bud" Holmes and possibly Carroll Ingram is in on it."

Q. Did he refer to anybody else who might have been involved in the drug transaction?

A. (by Judge Nixon) He did say that another person--and I did not recall the name, still do not know, recall the name he mentioned at that time--had been involved and had not been charged or indicted. He was mad about that also.

(Nixon Subcommittee Testimony, Serial No. 96 at 433-434)

Excerpt No. 4

Q. (By counsel for the House) I think you have testified to us, that the first time you ever learned of Drew's existence, or that Drew was Wiley's son, was in 1983, is that correct?

A. (by Judge Nixon) Yes.

Q. Yet on page 33 of the interview, when you were interviewed, you were asked about Redditt Fairchild, which is Drew's real name. And you said: "I don't know him by any name. I don't know him, never met him, don't know what he looks like."

"Question: Never met him?" "Answer: No." "Never saw him?" "Answer: No" "Question: Does he work with his father?" "Answer: I have no idea. Didn't even know he existed except from what I read about that and what you just told me."

Now it is true, Judge, that you knew he existed from what Wiley had told you about the blackmail scheme, right?

A. Yes.

(Nixon Subcommittee Testimony,
Serial No. 96 at 509)

Excerpt No. 5

Q. (by counsel for the House) . . . . Now, was it your testimony, Judge Nixon, that Wiley brought up the subject?

A. (by Judge Nixon) Of what?

Q. Of the alleged blackmail scheme regarding Bud Holmes' handling of the Drew Fairchild drug case?

A. I don't know whether you'd call it a "scheme," but he stated what I said he did, yes.

Q. And it was Wiley that brought up this subject?

A. Of course.

Q. And he mentioned his son?

A. Yes.

Q. Drew?

A. Yes.

Q. Now, if we can look at page 32 of your interview with the FBI, and that's at Tab 22, page 32. When asked the question: "Do you recall any knowledge of the case, meaning the Fairchild case, while you were dealing with Wiley Fairchild? No. And he certainly never brought it up? Not to my recollection. I think I would recall that."

Judge Nixon, isn't it true that, indeed, Wiley Fairchild did bring up the subject of his son's drug case?

A. Not while we were dealing with respect to the oil interests, no. Later.

Q. Well, he brought up the subject of the blackmail, correct?

A. Yes.

Q. And the blackmail concerned the handling of his son's drug case, isn't that correct?

A. Not while I was dealing with Wiley Fairchild. The deal had been consummated in 1981.

Q. Well, you were still continuing to receive royalty payments, correct?

A. Yes.

Q. And the terms of the deed were still in effect with Wiley Fairchild, correct?

A. Yes.

Q. And you indeed even had conversations with him a few months earlier regarding possibly being put into another well?

A. He mentioned something at that reception, very briefly, in October of 1982.

(Nixon Subcommittee Testimony,
Serial No. 96 at 503-504)

Excerpt No. 6

Q. (By Congressman DeWine) Let's go--and I can't peg the date because apparently there is a conflict with the date--but the famous meeting with Bud Holmes that started in the office and then went to his house.

A. No, sir. It never started in his office.

Q. Your testimony is it did not start in the office. Where did it start?

A. I met him at his farm, his home out at the farm.

Q. About what time of day was that?

A. It was in the evening, after 5:00. I'd say between 5:00 and 7:00.

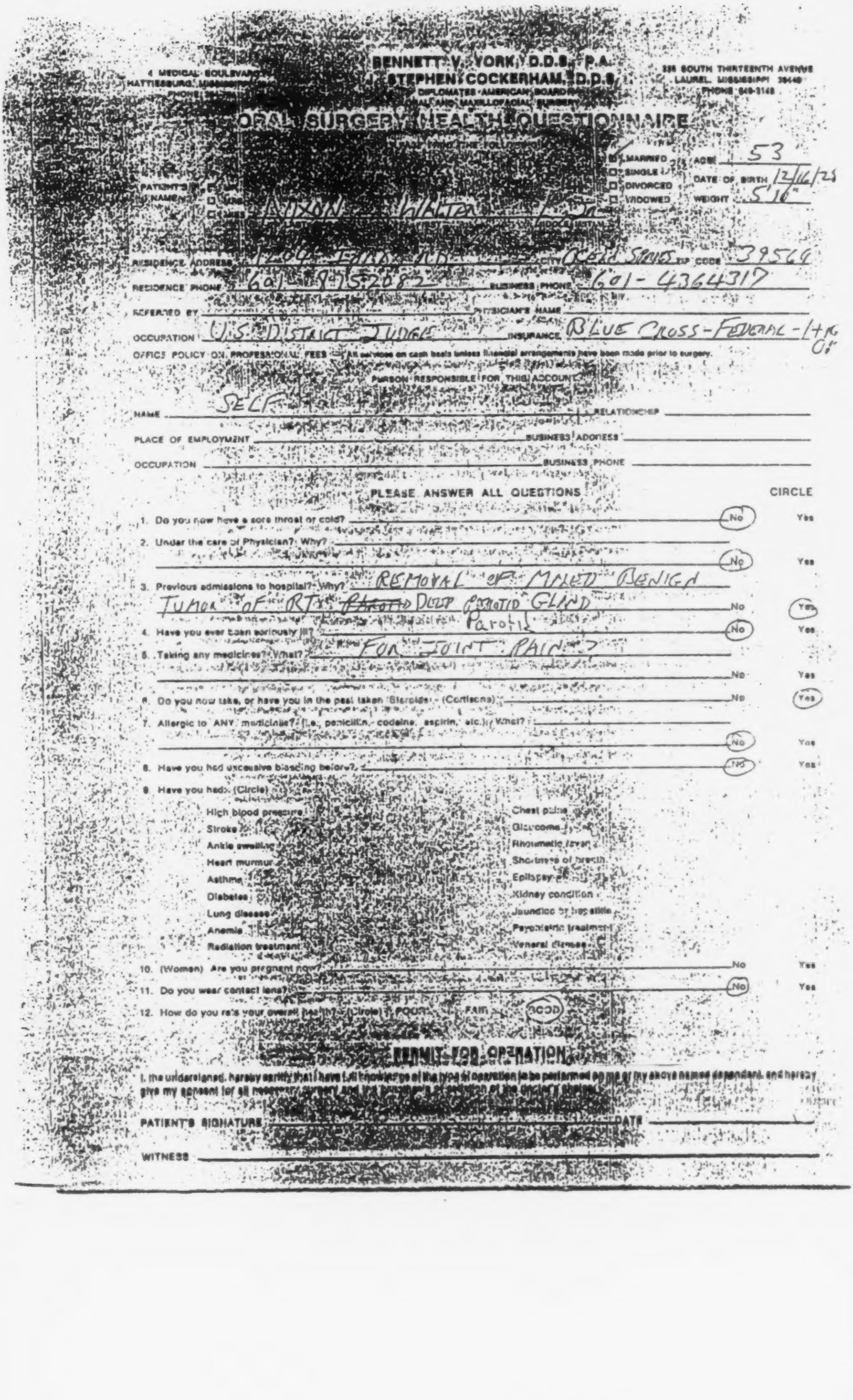
Q. And again, apologizing for being redundant, but when was the first mention of the Drew Fairchild case brought up?

A. I don't know how long I had been there, Congressman DeWine, but I'd had at least one drink, and he was on the phone, and what have, and we had had some conversation.

Q. And what was that initial reference?

A. I said, Bud, I've been talking to Wiley Fairchild, and he has made an accusation of blackmail against you in connection with his son's matter that you're handling. Or something to that effect.

(Nixon Subcommittee Testimony, Serial No. 96, at 464)



4 MEDICAL BOULEVARD
HATTIESBURG, MISSISSIPPI
PHONE [illegible]

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LAUREL, MISSISSIPPI 39440
PHONE 649-3146

ORAL SURGERY HEALTH QUESTIONNAIRE

☑ MARRIED
☐ SINGLE
☐ DIVORCED
☐ WIDOWED

AGE 53
DATE OF BIRTH 12/16/25
WEIGHT 5'10"

PATIENT'S NAME NIXON WALTER L. Jr.

RESIDENCE ADDRESS 1204 [illegible] CITY Ocean Springs ZIP CODE 39564

RESIDENCE PHONE 601-875-2082 BUSINESS PHONE 601-4364317

REFERRED BY PHYSICIAN'S NAME

OCCUPATION U.S. DISTRICT JUDGE INSURANCE BLUE CROSS-FEDERAL-HIG Op

OFFICE POLICY ON PROFESSIONAL FEES — All services on cash basis unless financial arrangements have been made prior to surgery.

PERSON RESPONSIBLE FOR THIS ACCOUNT

NAME SELF RELATIONSHIP

PLACE OF EMPLOYMENT BUSINESS ADDRESS

OCCUPATION BUSINESS PHONE

PLEASE ANSWER ALL QUESTIONS CIRCLE

1. Do you now have a sore throat or cold? [✓ No] Yes
2. Under the care of Physician? Why? [✓ No] Yes
3. Previous admissions to hospital? Why? REMOVAL OF MIXED BENIGN TUMOR OF RT ~~PAROTID~~ DEEP CAROTID GLAND Parotid No [✓ Yes]
4. Have you ever been seriously ill? [✓ No] Yes
5. Taking any medicines? What? FOR JOINT PAIN ? No Yes
6. Do you now take, or have you in the past taken Steroids - (Cortisone) No [✓ Yes]
7. Allergic to ANY medicine? (i.e., penicillin, codeine, aspirin, etc.) What? [✓ No] Yes
8. Have you had excessive bleeding before? [✓ No] Yes
9. Have you had: (Circle)

High blood pressure
Stroke
Ankle swelling
Heart murmur
Asthma
Diabetes
Lung disease
Anemia
Radiation treatment

Chest pains
Glaucoma
Rheumatic fever
Shortness of breath
Epilepsy
Kidney condition
Jaundice or hepatitis
Psychiatric treatment
Veneral disease

10. (Women) Are you pregnant now? No Yes
11. Do you wear contact lens? [✓ No] Yes
12. How do you rate your overall health? (Circle) POOR FAIR [✓ GOOD]

PERMIT FOR OPERATION

I, the undersigned, hereby certify that I have full knowledge of the type of operation to be performed on me or my above named dependant, and hereby give my consent for all necessary surgery and the anesthetic or sedation of the doctor's choice.

PATIENT'S SIGNATURE DATE

WITNESS

~~11 AM~~ ~~[illegible]~~ 3P.M.

Ny

Date 5-14-82

Name Judge Walter Nixon Phone

Biloxi

Procedure

Anesthesia Age

Referred By

X-Rays PANOGRAPH TAKEN

Physician Phone ☐

Hospital Anesth. ☐

Remarks Carroll Ingram 545-2211 W.

545 7548 R.

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HATTIESBURG, MISS. 39401
LAUREL, MISS. 39440
JOHN S. COCKERHAM, D.D.S.
DEA NO. AC7468538

For Judge Walter Nixon Date 6-15-82

Address 1204 Iola Rd Ocean Springs MS

R

DECADRON TABS 0.75 mg.

Disp: #12

Sig: 1 q tid

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ORAL AND MAXILLOFACIAL SURGERY
4 Medical Boulevard — 325 South Thirteenth Avenue
TTIESBURG, MS 39401 — LAUREL, MS 39440
Phone (601)261-7611 — Phone (601)649-3148
[illegible] V. York MS Lic #1182-65 — J. Stephen Cockerham MS Lic #1602-74
FED. I.D. #64-0510106

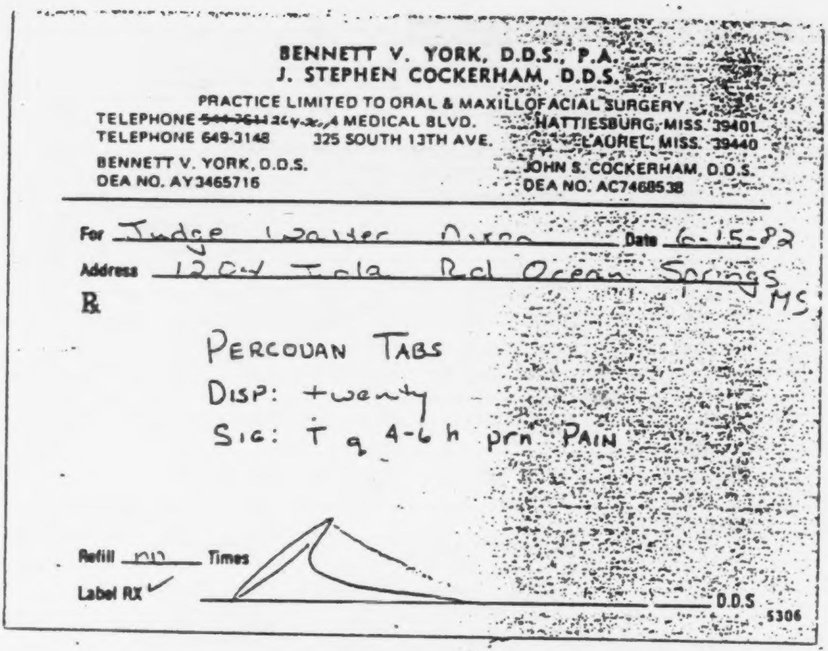
[redacted]
RESPONSIBLE PARTY: Sam [redacted]
STREET ADDRESS: 1204 [illegible] Rd
CITY, STATE, ZIP: [illegible]
FAMILY NUMBER: 16854 — TELEPHONE: 875-3082 — MO 5 DA 13 YR 83

☒ OFF #543 ☐ OFF #545 — DR CODE [illegible]

PROCEDURE	CODE	AMOUNT
VISITS AND DIAGNOSTIC		
☐ Initial workup & evaluation	IE 00110	
☐ Diag. orthognathic workup	AH 09920	
☐ Diag. preprosthetic workup	AJ 09920	
☐ Emergency services	BC 09440	
☐ Postop visits/treatments	BL 09430	
☐ Hospital visits/cn	HP 09420	
☐ Hospital admission (cpt)	BT 90200	
☒ Diagnostic photographs	DP 00471	6
☐ Diagnostic casts	DC 00470	
DIAGNOSTIC RADIOLOGY		
☒ Panograph	XP 00330	26
☐	BZ 00321	
☐ Cephalometric	CS 00340	
☐ Periapical	XI 00220	
☐ Occlusal	XO 00240	
☐ Sialogram	XS 00310	
☐ Skull/Facial film	CX 00290	
LAB		
☐ Hct	ME 00490	
☐ EKG	UA 00490	
☐ Culture & sensitivity	DS 00410	
ANESTHESIA		
☐ General-IV sedation	IV 09220	
☐ Local	CN 09211	
☐ Analgesia/sedation	AN 09230	
TEE		
☐ S extractions	ST 07100	
☐ Surgical removal (total teeth removed)	DX 07200	
☐ Erupted third molars	TE 07210	
☐ Impaction (soft tissue)	ES 07220	
☐ Impaction (partial bony)	EP 07230	

PROCEDURE	CODE	AMOUNT
☐ Complicated impactions	EC 07241	
☐ Removal of root tip	RC 07250	
☐ Exposure of impacted tooth incl. wire attachment when indicated	EI 07280	
☐ Endosseous implant	EM 03460	
☐ Tooth replant/transplant	RP 07270	
ENDODONTIC PROCEDURES		
☐ Root canal therapy – One canal	CA 03310	
☐ Root canal therapy – Two canals	CB 03320	
☐ Root canal therapy – Three canals	CC 03330	
☐ Root canal therapy – Four canals	CD 03340	
☐ Apicoectomy separate procedure	AP 03410	
☐ Apicoectomy, with root canal	AC 03420	
☐ Retrograde filling	RF 03430	
☐ Root resection	RR 03450	
INTRAORAL & INDEPENDENT PROCEDURES		
☐ Alveoloplasty with extractions	AE 07310	
☐ Alveoloplasty independent procedures	AW 07320	
☐ Removal exostosis/torus	EX 07470	
☐ Tuberosity reduction	RT 07970	
☐ Frenectomy	FR 07960	
☐ Z-Plasty procedure-lip (cpt)	ET 14060	
☐ Excise hyperplastic tissue	HY 07970	
☐ Biopsy-hard tissue	BH 00430	
☐ Biopsy-soft tissue	BS 00440	
☐ Surgical excision/curettage	FA 07400	
☐ Removal odontogenic cyst/tumor – less 1/2 in	OA 07450	
☐ Removal odontogenic cyst/tumor – over 1/2 in	OB 07451	
☐ Removal non-odontogenic cyst/tumor – less 1/2 in	NA 07460	
☐ Removal non-odontogenic cyst/tumor – over 1/2 in	NB 07461	
☐ Excision malignancy – less 1/2 in	MA 07440	
☐ Excision malignancy – over 1/2 in	MB 07441	
☐ Vermilionectomy (lip shave) (cpt)	FT 40500	
☐ Caldwell Luc (cpt)	CL 31030	
☐ Repair oroantral fistula	AF 07260	

PROCEDURE	CODE	AMOUNT
☐ Vestibuloplasty	SC 07350	
☐ Preprosthetic grafts & implants	GA 07950	
☐ Repair alveolar cleft (cpt)	GB 42210	
☐ TMJ – closed reduction of dislocation	TR 07820	
☐ TMJ – condylectomy	TC 07840	
☐ TMJ – arthrotomy	TA 07860	
☐ TMJ – manipulation under anesthesia	TU 07830	
☐ Dilation of salivary duct (cpt)	GC 42650	
☐ Sialolithotomy	SI 07980	
☐ Sialodochoplasty	JA 07982	
☐ Diagnostic nerve block (cpt)	JB 64400	
☐ Peripheral neurectomy	JC 07931	
INFECTIONS		
☐ I & D intraoral	AI 07510	
☐ I & D extraoral	AX 07520	
☐ Sequestrectomy for osteomyelitis	JN 07550	
FRACTURES		
☐ Maxilla fracture/open red with intermaxillary fixation	UO 07710	
☐ Maxilla fracture/closed red with IMF	UC 07720	
☐ Mandibular fracture/open red with IMF	LO 07730	
☐ Mandibular fracture/closed red with IMF	LC 07740	
☐ Alveolar fracture	AL 07770	
☐ Facial bones compl. requiring multiple surgical approaches	FC 07680	
LACERATIONS		
☐ Suture – Simple less 2 in	SS 07910	
☐ Suture – Complicated less 2 in	SA 07911	
☐ Suture – Complicated over 2 in	SB 07912	
MISC. SERVICES		
☐ Removal of wire/screws (cpt)	QA 20680	
☒ Bruxism splint	QB 08210	170
☐ Therapeutic drug injection	QC 09610	



BENNETT V. YORK, D.D.S., P.A.
J. STEPHEN COCKERHAM, D.D.S.
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TELEPHONE 649-3148 325 SOUTH 13TH AVE. LAUREL, MISS. 39440

BENNETT V. YORK, D.D.S.
DEA NO. AY3465716

JOHN S. COCKERHAM, D.D.S.
DEA NO. AC7468538

For Judge Walter Nixon Date 6-15-82
Address 1204 Iola Rd Ocean Springs MS

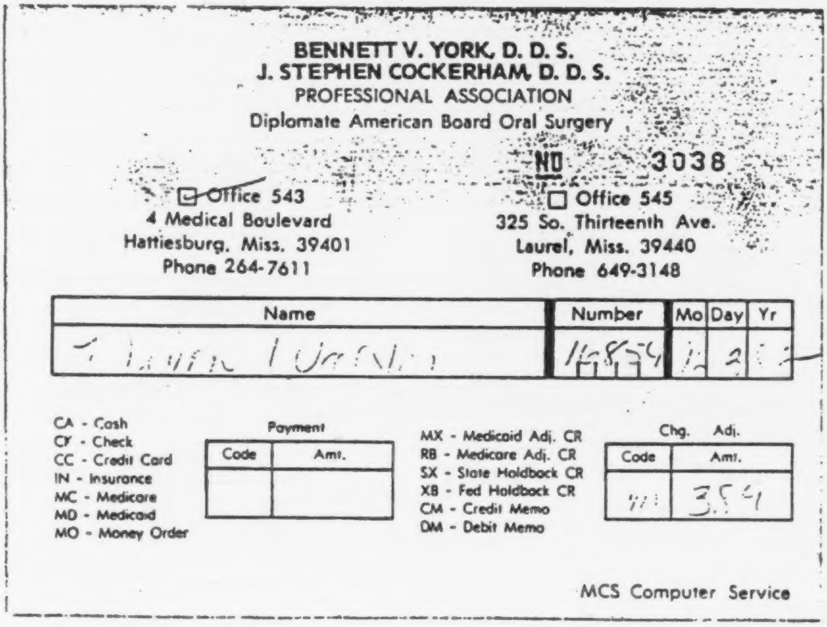
℞

PERCODAN TABS
DISP: twenty
SIG: T q 4-6 h prn PAIN

Refill no Times
Label RX ✓

D.D.S.

5306



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PROFESSIONAL ASSOCIATION
Diplomate American Board Oral Surgery

NO 3038

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4 Medical Boulevard
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Phone 264-7611

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325 So. Thirteenth Ave.
Laurel, Miss. 39440
Phone 649-3148

Name	Number	Mo	Day	Yr
[illegible]	16854	1[illegible]	2	[illegible]

CA - Cash
CK - Check
CC - Credit Card
IN - Insurance
MC - Medicare
MD - Medicaid
MO - Money Order

Payment

Code	Amt.

MX - Medicaid Adj. CR
RB - Medicare Adj. CR
SX - State Holdback CR
XB - Fed Holdback CR
CM - Credit Memo
DM - Debit Memo

Chg. Adj.

Code	Amt.
[illegible]	3.54

MCS Computer Service

FED I D #64-0510108

1,6,0,5,7 1 6,15,52

☒ OFF #543 ☐ OFF #545

DR CODE 4

PROCEDURE	CODE	AMOUNT	PROCEDURE	CODE	AMOUNT	PROCEDURE	CODE	AMOUNT
VISITS AND DIAGNOSTIC			☒ Complicated impactions	EC 07241	120	☐ Vestibuloplasty	BC 07350	
☐ Initial workup & evaluation	IE 00110		☐ Removal of root tip	RC 07250		☐ Preprosthetic grafts & implants	GA 07950	
☐ Diag. orthognathic workup	AH 09920		☐ Exposure of impacted tooth incl. wire attachment when indicated	EI 07280		☐ Repair alveolar cleft (cpt)	GB 42210	
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☐ Emergency services	BC 09440		☐ Tooth replant/transplant	RP 07270		☐ TMJ - condylectomy	TC 07840	
☐ Postop visits/treatments	BL 09430					☐ TMJ - arthrotomy X	TA 07860	
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☐ Hospital admission (cpt)	BT 90200		☐ Root canal therapy - One canal	CA 03310		☐ Dilation of salivary duct (cpt)	GC 42650	
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☐ Diagnostic casts	DC 00470		☐ Root canal therapy - Three canals	CC 03330		☐ Sialodochoplasty	JA 07982	
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DIAGNOSTIC RADIOLOGY			☐ Apicoectomy, separate procedure	AP 03410		☐ Peripheral neurectomy	JC 07931	
☐ Panograph	XP 00330		☐ Apicoectomy, with root canal	AC 03420				
☐ TMJ	BZ 00321		☐ Retrograde filling	RF 03430		**INFECTIONS**		
☐ Cephalometric	CS 00340		☐ Root resection	RR 03450		☐ I & D intraoral	AI 07510	
☐ Periapical	XI 00220					☐ I & D extraoral	AX 07520	
☐ Occlusal	XO 00240		**INTRAORAL & INDEPENDENT PROCEDURES**			☐ Sequestrectomy for osteomyelitis	JN 07550	
☐ Sialogram	XS 00310		☐ Alveoloplasty with extractions	AE 07310				
☐ Skull/Facial film	CX 00290		☐ Alveoloplasty, independent procedures	AW 07320		**FRACTURES**		
			☐ Removal exostosis/torus	EX 07470		☐ Maxilla fracture/open red. with intermaxillary fixation	UO 07710	
LAB			☐ Tuberosity reduction	RT 07970		☐ Maxilla fracture/closed red. with IMF	UC 07720	
☐ Hct	ME 00490		☐ Frenectomy	FR 07960		☐ Mandibular fracture/open red. with IMF	LO 07730	
☒ EKG	DA 00490	12	☐ Z-Plasty procedure-lip (cpt)	ET 14060		☐ Mandibular fracture/closed red. with IMF	LC 07740	
☐ Culture & sensitivity	DS 00410		☐ Excise hyperplastic tissue	HY 07970		☐ Alveolar fracture	AL 07770	
			☐ Biopsy-hard tissue	BH 00430		☐ Facial bones compl. requiring multiple surgical approaches	FC 07680	
ANESTHESIA			☐ Biopsy-soft tissue	BS 00440				
☒ General-IV sedation	IV 09220	55	☐ Surgical excision/curettage	FA 07400		**LACERATIONS**		
☐ Local	CN 09211		☐ Removal odontogenic cyst/tumor - less 1/2 in.	OA 07450		☐ Suture - Simple less 2 in.	SS 07910	
☐ Analgesia/sedation	AH 09230		☐ Removal odontogenic cyst/tumor - over 1/2 in.	OB 07451		☐ Suture - Complicated less 2 in.	SA 07911	
			☐ Removal non-odontogenic cyst/tumor - less 1/2 in.	NA 07460		☐ Suture - Complicated over 2 in.	SB 07912	
TEETH			☐ Removal non-odontogenic cyst/tumor - over 1/2 in.	NB 07461				
☐ Simple extractions	ST 07100		☐ Excision malignancy - less 1/2 in.	MA 07440		**MISC. SERVICES**		
☐ Surgical removal (total teeth removed)	DX 07200		☐ Excision malignancy - over 1/2 in.	MB 07441		☐ Removal of wire/screws (cpt)	QA 20680	
☐ Erupted third molars	TE 07210		☐ Vermilionectomy (lip shave) (cpt)	FT 40500		☐ Bruxism splint	QB 08210	
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☐ Impaction (partial bony)	EP 07230		☐ Repair oroantral fistula	AF 07260				
☐ Impaction (full bony)	EB 07240		☐ Orthognathic surgery	PR 07940				

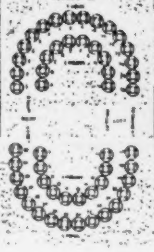
ooth # / Letter	DIAGNOSIS

Signature Date

I AUTHORIZE RELEASE OF ANY INFORMATION RELATING TO THIS CLAIM.

Signature

IDENTIFY MISSING TEETH WITH "X"



TOTAL CHARGES 187 00

CASH ☐ CA MEDICARE ☐ MC
CHECK ☐ CK MEDICAID ☐ MD
CHARGE CARD ☐ CC INSURANCE ☐ IN
MONEY ORDER ☐ MO

PAYMENT	CODE	PAYMENT AMOUNT

I HEREBY AUTHORIZE PAYMENT DIRECTLY TO THE SAID DOCTOR OF ANY BENEFITS DUE TO ME FOR SURGICAL SERVICES RENDERED. I UNDERSTAND THAT I AM RESPONSIBLE FOR ANY AMOUNT NOT COVERED BY MY INSURANCE COMPANY.

(SIGN INSURED PERSON)

PRACTICE LIMITED TO PERIODONTICS

LOWERY A. FALER, D.M.D., P.A.
NUMBER 9 • MEDICAL BOULEVARD
TELEPHONE 264-2424
HATTIESBURG, MISSISSIPPI 39401-5680

PERIODONTAL EVALUATION REPORT

PATIENTS NAME: Judge Nixon REFERRED BY: York DATE: 6/24/82

PAST DENTAL HISTORY: regular PREVIOUS PERIO TX.:

CHIEF COMPLAINT: some sensitivity on lower left, bad tartar

PERIODONTAL EXAMINATION AND EVALUATION:

This patient has several over-contoured crowns. The soft tissues are inflamed. He has no severe bone loss. My impression is that he needs conservative periodontal treatment consisting of oral hygiene instructions, occlusal adjustment, dental debridement, and periodic re-evaluation. There are several crowns that need replacing.

OCCLUSAL ANALYSIS: prematurities on right, balancing contacts left/ride

DIAGNOSIS: generalized gingivitis, localized mild periodontitis

ETIOLOGY: retained plaque, poor crown & bridge in the past

CASE TYPE: II PROGNOSIS: excellent

RECOMMENDED PERIODONTAL TREATMENT:

oral hygiene instructions, occlusal adjustment, cavitron
Oral hygiene instructions, prophy
re-evaluate on a recall basis

POSITIVE MEDICAL FINDINGS AND COMPLICATING FACTORS: none

PATIENTS ATTITUDE AND CLASSIFICATION: + - I

TO BE DONE BY REFERRING DENTIST BEFORE PERIODONTAL TX.: none

RECOMMENDED RESTORATIVE TREATMENT: (IF ANY)

COMMENTS: Thanks, Bennett, I appreciate your referring Judge Nixon.
laf

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Hattiesburg Division

UNITED STATES OF AMERICA)
) CR. No.
v.) Violations:
) 18 U.S.C. §201(g) (Gratuity)
WALTER L. NIXON, JR.) 18 U.S.C. §1623 (Perjury)
)

INDICTMENT

The Grand Jury charges:

COUNT I

1. At all times material to this Indictment:

(a) The Defendant, WALTER L. NIXON, JR., was a United States District Court Judge in the Southern District of Mississippi.

(b) Wiley Fairchild was a businessman living in Hattiesburg, Mississippi.

(c) Paul H. "Bud" Holmes was an attorney in Hattiesburg, Mississippi and from January 1980 until January 1984, he served as the District Attorney for Mississippi's 12th District and had his office in Hattiesburg, Mississippi.

(d) Drew Fairchild was Wiley Fairchild's son and in August 1981 he was indicted by the State of Mississippi and charged with participating in a drug smuggling conspiracy at the Hattiesburg Airport in August 1980.

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(e) Carroll Ingram was an attorney in Hattiesburg, Mississippi and represented Wiley Fairchild.

2. On or about February 25, 1981, the exact date being unknown to the grand jury, in the Southern District of Mississippi, the Defendant, WALTER L. NIXON, JR., unlawfully and knowingly did, directly and indirectly, accept, receive, and agree to receive things of value for himself otherwise than as provided by law for the proper discharge of his official duties; to wit, royalty interests in three wells, from Wiley Fairchild, for and because of official acts to be performed by the Defendant, WALTER L. NIXON, JR., in the future in matters of interest to Wiley Fairchild.

3. As part of said unlawful activity:

(a) The Defendant, WALTER L. NIXON, JR., made an initial request to Carroll Ingram that the Defendant, WALTER L. NIXON, JR., be placed in an oil and gas investment with Wiley Fairchild;

(b) The Defendant, WALTER L. NIXON, JR., subsequent to the initial request referred to in the previous paragraph, frequently and persistently urged Carroll Ingram to see to it that the Defendant WALTER L. NIXON, JR., was placed in an oil and gas investment with Wiley Fairchild;

(c) The Defendant, WALTER L. NIXON, JR., received mineral royalty interests from Wiley Fairchild worth far more than any consideration the Defendant, WALTER L. NIXON, JR., agreed to pay for the interests;

(d) The Defendant, WALTER L. NIXON, JR., knew about and acquiesced in the backdating of the mineral royalty interests so as to make it appear that the Defendant, WALTER L. NIXON, Jr., had received oil and gas interests from Wiley Fairchild one year earlier than he actually had;

(e) The Defendant, WALTER L. NIXON, JR., knew about and acquiesced in the backdating of three promissory notes totalling $9,500 and made payable from the Defendant, WALTER L. NIXON, JR., to Wiley Fairchild so as to make it appear that the Defendant, WALTER L. NIXON, JR., had agreed to pay Wiley Fairchild $9,500 for the mineral royalty interests more than a year earlier than the time when the notes were actually prepared;

(f) The Defendant, WALTER L. NIXON, JR., advised Wiley Fairchild after receiving the mineral royalty interests that he would help Fairchild any time he could;

(g) The Defendant, WALTER L. NIXON, JR., paid off the three promissory notes totalling $9,500 to Wiley Fairchild only after receiving royalty payments of larger amounts from Wiley Fairchild; and

(h) The Defendant, WALTER L. NIXON, JR., to date has received over $60,000 in mineral royalties from still-producing wells given to him by Wiley Fairchild.

In violation of Title 18 United States Code 201(g).

COUNT II

1. Paragraph One of Count I is herein realleged and incorporated as if set forth in full herein.

2. On or about July 18, 1984, in Forrest County in the Hattiesburg Division of the Southern District of Mississippi, the Defendant, WALTER L. NIXON, JR., having duly taken an oath that he would testify truthfully in proceedings before a duly constituted grand jury of the United States, did knowingly and contrary to said oath make false material declarations as hereinafter set forth.

3. At the time and place set forth in paragraph two, the grand jury of the United States District Court for the Southern District of Mississippi was conducting an investigation into allegations of official corruption in the Southern District of Mississippi and as part of that investigation was examining, among other things, a) the circumstances of the transfer of mineral royalty interests from Wiley Fairchild to the Defendant, WALTER L. NIXON, JR., and b) the handling of the drug smuggling case involving Drew Fairchild by Paul H. "Bud" Holmes, then the District Attorney for Mississippi's 12th Judicial District.

4. It was material to the grand jury's investigation to determine:

(a) Whether or not the Defendant, WALTER L. NIXON, JR., discussed the drug case involving Drew Fairchild with Wiley Fairchild;

(b) Whether or not Wiley Fairchild asked the Defendant, WALTER L. NIXON, JR., to influence the handling of his son's case by interceding on his behalf with Paul H. "Bud" Holmes;

(c) Whether or not the Defendant, WALTER L. NIXON, JR., discussed the drug case involving Drew Fairchild with Paul H. "Bud" Holmes; and

(d) Whether or not the Defendant, WALTER L. NIXON, JR., sought to influence Paul H. "Bud" Holmes' handling of the Drew Fairchild drug case because the Defendant, WALTER L. NIXON, JR., had received mineral royalty interests from Wiley Fairchild.

5. At the time and place set forth in paragraph two, the Defendant, WALTER L. NIXON, JR., appearing as a witness under oath before the grand jury, was asked the following questions and gave the following answers, knowing the underscored material declarations to be false:

> Q. Did Wiley Fairchild ever discuss the case with you?
>
> A. No, not to the best of my recollection. I think I would recall that if he had, believe me, but I don't recall that he ever did.
>
> Q. And accepting your answer as you state it, I need to ask the follow-up questions.
>
> A. Very well.
>
> Q. Did Wiley Fairchild ever ask you to do anything vis-a-vis his son's case?
>
> A. Absolutely not.

6. The underscored material declarations made under oath before the grand jury by the Defendant, WALTER L. NIXON, JR., as set forth in paragraph five of this Count, as the Defendant, WALTER L. NIXON, JR., then and there well knew and believed, were false in that (1) the Defendant, WALTER L. NIXON, JR., had discussed Drew Fairchild's drug smuggling case with Wiley Fairchild; (2) the Defendant, WALTER L. NIXON, JR., had recalled those discussions with Wiley Fairchild at the time he testified before the grand jury; and (3) Wiley Fairchild had asked the Defendant, WALTER L. NIXON, JR., to help him with his son's drug case by influencing Paul H. "Bud" Holmes.

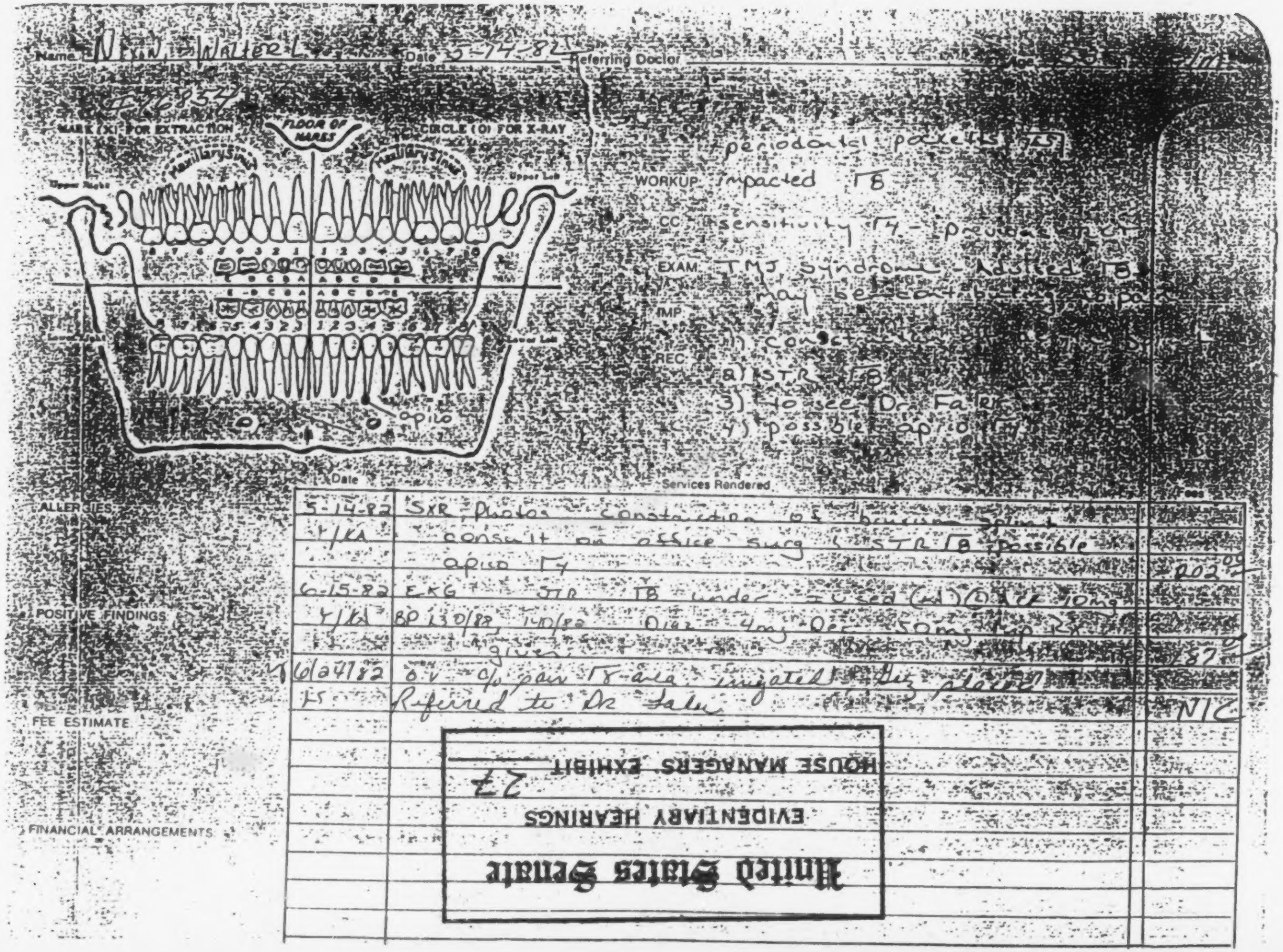
In violation of Title 18, United States Code, Section 1623.

COUNT III

1. Paragraph one of Count I and paragraphs two through four of Count II are herein realleged and incorporated as if set forth in full herein.

2. At the time and place set forth in pargaraph two of Count II, the Defendant, WALTER L. NIXON, JR., appearing as a witness under oath before the grand jury, was asked the following questions and gave the following answers, knowing the underscored material declaration to be false:

> Q. The grand jury has heard evidence that the prosecutor, the state prosecutor, who eventually handled the case was an individual named Bud Holmes. Is he a friend of yours?
>
> A. Very good friend of mine, long time friend, yes.



Name NIXON, Walter L. Jr. Date 5-14-82 Referring Doctor [illegible] Age [illegible]

#76854

MARK (X) FOR EXTRACTION CIRCLE (O) FOR X-RAY

FLOOR OF NARES
Maxillary Sinus
Maxillary Sinus
Upper Right
Upper Left
Lower Right
Lower Left
apico

periodontal pockets 7̅5̅

WORKUP impacted ⌐8

CC sensitivity ⌐4 - previous rct

EXAM TMJ syndrome - Ankylosed ⌐8 may be contributing to pain

IMP

REC
1) construct [illegible]
2) STR ⌐8
3) to see Dr. Falen
4) possible apico ⌐4

ALLERGIES

POSITIVE FINDINGS

FEE ESTIMATE

FINANCIAL ARRANGEMENTS

Date	Services Rendered	Fees
5-14-82	SXR, photos construction of bruxism splint	
Y/KA	consult on office surg - STR ⌐8 possible	
	apico ⌐4	202.00
6-15-82	EKG STR ⌐8 under IV sed (cd) ① [illegible] 10mg	
Y/KA	BP 130/88 140/82 Diaz 4mg Dem 50mg [illegible] Rx	
	given	87.00
6/24/82	O.V. c/o pain ⌐8 area irrigated [illegible] placed	
FS	Referred to Dr Falen	N/C

United States Senate

EVIDENTIARY HEARINGS

HOUSE MANAGERS' EXHIBIT

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> Q. Did he ever discuss the Drew Fairchild case with you?
>
> A. No, not to the best of my recollection. I think I would recall if he had.

3. The underscored material declaration made under oath before the grand jury by the Defendant, WALTER L. NIXON, JR., as set forth in paragraph two of this Count, as the Defendant, WALTER L. NIXON, JR., then and there well knew and believed, was false in that Bud Holmes and the Defendant, WALTER L. NIXON, JR., had discussed Drew Fairchild's drug smuggling case.

In violation of Title 18 United States Code, Section 1623.

COUNT IV

1. Paragraph one of Count I and paragraphs two through four of Count II are herein realleged and incorporated as if set forth in full herein.

2. At the time and place set forth in paragraph two of Count II, the Defendant, WALTER L. NIXON, JR., appearing as a witness under oath before the grand jury, was asked the following question and gave the following response, knowing the underscored material declarations to be false:

> MR. WEINGARTEN:
>
> All right. Judge, do you have anything you want to add?
>
> THE WITNESS:
>
> Yes, I do.
>
> I want to say this. I-- Here (indicating) are your notes too, copies of your instruments, rather.

> I came here voluntarily and am very happy to cooperate with this grand jury and give them all the information that I have and that I could. And I have always thought everyone should do that, and that goes for the grand jury over which I'm supervising right now, the other federal grand jury that's sitting at this time. I have nothing at all to-- had nothing to hide or nothing to withhold and I brought everything that you have asked me to bring.
>
> And I want to say this. That I've been told and led to believe and read in the newspaper and heard on the news media, so much about this is an investigation of the Drew Fairchild criminal case. Now, I have had nothing whatsoever officially or unofficially to do with the Drew Fairchild criminal case in federal court or state court. I don't need to reconstruct anything with reference to that. I've told you that from the beginning.
>
> I have never talked to anyone about the case, any federal judge or state judge, federal prosecutor or state prosecutor, and I never handled any aspect of this case in federal court. As you said, Judge Cox handled it. I don't know where-- someone told me maybe Judge Russell handled one of the other defendants also and-- but I never handled any part of it, never had a thing to do with it at all, and never talked to anyone, state or federal, prosecutor or judge, in any way influence anybody with respect to this case. Didn't know anything about it until I read that account in the newspaper. Didn't even know Mr. Fairchild had a son when I was dealing with him in the business transaction.
>
> So I want to say that because I understand that's what this is all about. The investigation is apparently, if the news media is correct, and if I understand it correctly, that's what this is about, the Drew Fairchild criminal case.

3. The underscored material declarations made under oath before the grand jury by the Defendant, WALTER L. NIXON, JR., as

set forth in paragraph two of this Count, as the Defendant, WALTER L. NIXON, JR., then and there well knew, were false in that the Defendant, WALTER L. NIXON, JR., did have something to do with the Drew Fairchild drug case as he had sought to influence the case by asking state prosecutor Paul H. "Bud" Holmes to do what he could for Drew Fairchild and thereby handle the case in a way that would please Wiley Fairchild.

In violation of Title 18, United States Code, Section 1623.

A TRUE BILL:

FOREMAN

REID H. WEINGARTEN

Trial Attorney
Public Integrity Section
Criminal Division
Department of Justice
Washington, D.C. 20530
(202) 724-6974

FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Hattiesburg Division

FEB 10 1986
CLARENCE A. PIERCE, CLERK
BY ____ DEPUTY

UNITED STATES OF AMERICA)
v.)
WALTER L. NIXON,) Crim. No. 85-00012(L)
Defendant.)

VERDICT

We, the jury, report our verdict in the above-entitled case as follows:

COUNT ONE: RECEIPT OF GRATUITY

18 U.S.C. §201(g)

We, the jury, find the defendant, Walter L. Nixon, Jr.,

Not Guilty

as charged in Count One of the Indictment.

COUNT TWO: PERJURY

18 U.S.C. §1623

We, the jury, find the defendant, Walter L. Nixon, Jr.,

Not guilty

as charged in Count Two of the Indictment.

COUNT THREE: PERJURY

18 U.S.C. §1623

We, the jury, find the defendant, Walter L. Nixon, Jr.,

Guilty

as charged in Count Three of the Indictment.

600

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 29

COUNT FOUR: PERJURY

18 U.S.C. §1623

We, the jury, find the defendant, Walter L. Nixon, Jr.,

Guilty

as charged in Count Four of the Indictment.

SO SAY WE ALL.

Billie S. Dyess
Foreperson

2-9-86
Date

United States of America vs.

DEFENDANT WALTER L. NIXON, JR

United States District Court for
SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

DOCKET NO. → H85-00012(L)

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (9-82)

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date → MONTH DAY YEAR MARCH 31, 1986

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL Michael S. Fawer and Herbert Larson
(Name of Counsel)

PLEA

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea, ☐ NOLO CONTENDERE, ☐ NOT GUILTY

FINDING & JUDGMENT

There being a ~~finding~~/verdict of ☒ NOT GUILTY. Defendant is discharged as to Counts 1 & 2.
☒ GUILTY. as to Counts 3 & 4.

Defendant has been convicted as charged of the offense(s) of VIO; 18 USC 1623

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of FIVE (5) YEARS as to and under the charge contained in Count 3 of the indictment; FIVE (5) YEARS as to and under the charge contained in Count 4, such term of imprisonment to run concurrent with Count 3 for an aggregate term of imprisonment of FIVE (5) YEARS.

SPECIAL CONDITIONS OF PROBATION

Defendant released on bond pending appeal.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 30

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

A TRUE COPY, I HEREBY CERTIFY.
Clarence A. Pierce, CLERK
By:
Deputy Clerk

SIGNED BY
☒ U.S. District Judge
☐ U.S. Magistrate

James H. Meredith

Date March 31, 1986

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
APR 01 1986
CLARENCE A. PIERCE, CLERK
BY ______ DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
Hattiesburg Division

UNITED STATES OF AMERICA,
Plaintiff,
v.
WALTER L. NIXON, JR.
Defendant.

CR No. H85-00012 (L)

ORDER

Having fully considered the matter,

IT IS HEREBY ORDERED that defendant's Motion for Judgment of Acquittal and defendant's Motion for A New Trial are hereby denied. A memorandum of law which will become part of the Court file will follow.

DATED this 31st day of March, 1986.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 31

UNITED STATES DISTRICT JUDGE

A TRUE COPY, I HEREBY CERTIFY.
Clarence A. Pierce, CLERK
By:
Deputy Clerk

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
APR 14 1986
CLARENCE A. PIERCE, CLERK
BY ____ DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

UNITED STATES OF AMERICA)
)
vs.) Criminal No. H85-00012(L)
)
WALTER L. NIXON, JR.)

MEMORANDUM

By Order dated March 31, 1986, the Court denied defendant's Motion for Judgment of Acquittal or, in the alternative, for a New Trial on Counts III and IV of the Indictment. This Memorandum sets forth the Court's reasoning.

Defendant sought a judgment of acquittal or, in the alternative, a new trial for five separate reasons. In addition, during the evidentiary hearing on defendant's motion, defendant raised an additional argument concerning nondisclosure by the government of a document under Rule 16, F.R.Crim.P. Each argument will be addressed separately.

I. Materiality

Defendant alleges that the Court erred in finding the responses charged as perjurious in Counts III and IV "material" to the grand jury's investigation. The Court finds no merit in this argument.

The foreman of the grand jury testified as to the areas of inquiry and scope of the grand jury's investigation. It was clear from his testimony that the grand jury was investigating whether defendant's financial relationship with

Wiley Fairchild had anything to do with the handling of Drew Fairchild's drug case. Included in the investigation was the relationship between Bud Holmes and defendant and whether that relationship affected handling of Drew Fairchild's case.

The perjurious statements attributed to defendant included his statement that he never discussed Drew Fairchild's case with Bud Holmes (Count III) and his statement that he had "nothing whatsoever officially or unofficially to do with the Drew Fairchild criminal case" and never "in any way influenced anybody with respect to this case" (Count IV). It is clear that these statements were "capable of influencing the grand jury's investigation." United States v. Corbin, 734 F.2d 643, 654 (11th Cir. 1984); United States v. Oberski, 734 F.2d 1034, 1035 (5th Cir. 1984), cert. denied, 105 S.Ct. 797 (1985). The Court rejects defendant's argument that the statements were "factually insignificant"; indeed, these statements go to the heart of what the grand jury was investigating. The Court does not find merit in defendant's other arguments and finds that these statements were material to the investigation.

2. Sufficiency

Defendant's next contention is that the evidence adduced at trial was insufficient to support the jury verdict on Counts III and IV. In deciding this issue, the Court must view the evidence in the light most favorable to the government, United States v. Poitier, 623 F.2d 1017, 1022 (5th Cir. 1980). The Court cannot "assess the credibility of witnesses, weigh the evidence, or substitute its own judgment as to guilt or innocence for that of the jury." United States v. Brown, 587 F.2d 187, 190 (5th Cir. 1979). If the Court is convinced, viewing the evidence most favorably to the government, that the jury "could find that the evidence establishes guilt beyond a reasonable doubt," United States v. Bell, 678 F.2d 547, 549 (5th Cir. 1982)(en banc), aff'd, 462 U.S. 356 (1983), then the Court must deny the motion.

Both the government and defendant have extensively cited to the trial record in arguing sufficiency of the evidence. The Court sees no reason to discuss at length all the testimony adduced at trial. The Court has carefully reviewed the arguments of both sides and the trial record and finds that there was ample evidence from which a jury could find guilt beyond a reasonable doubt on Counts III and IV. Resolving inconsistencies in testimony and judging credibility are matters for the jury. There was sufficient evidence to support the jury's verdict and the Court will not disturb that verdict.

3. Taint

Defendant next argues that the presence of Count I "tainted" the perjury counts and improperly influenced the jury by allowing them to consider "improper" evidence. The Court rejects this argument for two reasons. First, nearly all of the evidence pertaining to Count I would have been admissible on the perjury counts. Second, the jury's verdict of acquittal on Counts I and II shows that the jury was able to consider each count separately and was not improperly influenced by the presence of Count I.

The Court notes that defendant made no motion to sever Count I pursuant to Rule 14, F.R.Crim.P. Defendant now argues that the mere presence of the alleged gratuity count prejudiced defendant on the perjury counts. The Court need not decide whether defendant waived this argument by not requesting a severance, United States v. DeLeon, 641 F.2d 330, 337 (5th Cir. 1981), because the Court believes joinder of these counts was proper.

Joinder is proper when the evidence on one count would be admissible in a trial on the other counts, United States v. Hamilton, 694 F.2d 398, 401 (5th Cir. 1982); United States v. Scott, 659 F.2d 585, 589 (5th Cir. 1981), cert. denied, 459 U.S. 854 (1982), or when there is a "substantial identity" among the facts and participants in the different counts, United States v. Long, 674 F.2d 848, 854 (11th Cir. 1982). Here, the evidence of the business relationship between defendant and Wiley Fairchild, defendant's involvement in the handling of Drew Fairchild's case, and defendant's discussions relating to Drew Fairchild's case were admissible as to Count I and the perjury counts. Such evidence would be admissible in a trial on the perjury counts alone as background evidence and as evidence of motive and intent.

It is also clear that the jury considered each count separately. Defendant was acquitted on Count II (perjury) which undermines defendant's argument that the jury was predisposed to convict defendant on the perjury counts by the mere inclusion of Count I. Worth noting too is that defendant was acquitted of Count I. This is not a case where the jury convicted the defendant of the count complained of and then became predisposed to convict on the remaining counts.

The Court is convinced that the jury carefully considered each count separately which, of course, they were instructed to do. The jury deliberated over a two-day period and sent various notes to the Court during that time which also lead the Court to believe that they carefully sifted through all the evidence with respect to each count.1/ The Court finds no merit in defendant's "taint" argument.

4. Juror Bias

Defendant next contends that certain jurors were biased against defendant. This argument has two prongs. The first alleges that three jurors were biased against defendant but did not reveal their biases when examined during voir dire. The second alleges that four jurors read newspaper

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1/ All notes received from the jury and subsequent in-chambers discussions are, of course, part of the record.

articles and watched television news stories about the trial prior to sequestration despite the Court's instructions.

With respect to the first allegation, defendant relies on the Affidavit and testimony of Linda Gallagher who was on the jury panel but did not sit as a juror or alternate at trial. Ms. Gallagher alleged that jurors Bernadette Clifton, Lillie Mize and Peggy Crawford all made remarks to her indicating their prejudices against defendant.[2] Because of defendant's motion and the Affidavit of Linda Gallagher filed therewith, the Court held an evidentiary hearing in which Linda Gallagher and all three jurors in question testified. All three jurors vehemently denied making the statements attributed to them by Linda Gallagher. All three jurors denied making any similar statements and further stated that they had not even heard anybody else make any similar statements.

Jury selection in this ~~case~~ took nearly five days. The Court allowed extensive questioning of individual jurors because of pretrial publicity and to insure a fair and impartial jury. These three jurors were each questioned individually by attorneys for both sides. Each of these jurors affirmed at that time that she could be impartial and fair to both the government and defendant. Each reiterated that impartiality during the evidentiary hearing.

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[2] *See* Affidavit of Linda Gallagher dated March 4, 1986 submitted with defendant's Motion for New Trial.

The Court finds the testimony of these three jurors credible but does not find the testimony of Linda Gallagher credible. Gallagher's testimony is suspect for a number of reasons. She either intentionally lied or was careless in her Affidavit and the questionnaire she completed. She admitted that the words "about the trial" should have been deleted from her Affidavit when she stated that fellow jurors read newspaper articles and watched television news stories despite the Court's instructions. Her questionnaire was misleading insofar as she denied having been arrested, having been the victim of a crime and having knowledge of her husband's prior record. There was also testimony that she spent much of the time during the jury selection process drinking beer and "partying" which indicate she may not have taken the process seriously. She also has a history of mental health problems which include two attempted suicides. The jurors who testified also stated that Gallagher was shunned by others on the panel because of her loud and abrasive demeanor.

Gallagher also stated that she tried to see counsel for defendant with her concerns but was turned away by a marshall on the Saturday the jury was selected. All of the marshalls who were on duty that day testified. They were all familiar with Gallagher and characterized her as "loud" and the type who sought attention. None of them recalled being approached by Gallagher with a request to see counsel or the

Court.[3] For all of these reasons, the Court discredits Gallagher's testimony with respect to the alleged biases of jurors Clifton, Mize and Crawford. The Court found the three jurors to be sincere and credible witnesses.

The other allegation raised by Gallagher's Affidavit is that of jurors watching television news or reading news coverage of the trial during the week of jury selection. Gallagher admitted during the evidentiary hearing that she really did not know whether anyone had actually been exposed to coverage "about the trial" and that her Affidavit was in error on that point. Nevertheless, the Court allowed jurors Clifton, Mize, Crawford and John Wesley Davis to be questioned on this point.

Jurors Clifton and Mize denied watching any television news or hearing any news on the radio. They further denied reading anything about the trial during the week of jury selection. The Court has no reason to disbelieve these jurors and finds their testimony credible.

Juror Peggy Crawford admitted she watched television in the evening during the week of jury selection and did not turn the news off at 10:00 p.m. She recalled seeing the news, including coverage of the trial, on Wednesday, Thursday and

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[3] The Court also notes that counsel for both sides and the Court were readily available during the five days of jury selection. At no time during this period did Gallagher attempt to raise any concerns with counsel or the Court

Friday nights. She said she only remembers news accounts on how many jurors had been selected and that the news did not influence her in any way.

Juror John Wesley Davis testified that he did not watch any "news" during the jury selection week but had seen at least one "newsbreak" which reported how many jurors had been selected. He also stated that he listened to his car radio while commuting home but did not recall hearing any news of the trial.

The Court first notes that the jury in this case was sequestered preceding opening statements through final deliberations. So too did the Court allow extensive individual examination during voir dire by attorneys for both sides. The limited contact jurors Crawford and Davis had with media coverage during the week of jury selection does not warrant a new trial. There was certainly no news account of any testimony or argument of counsel because the jury was sequestered prior to the actual start of trial.

Before this Court will grant defendant a new trial on the basis of adverse publicity, defendant must "demonstrate an actual, identifiable prejudice attributable to that publicity on the part of members of his jury." Mayola v. State of Alabama, 623 F.2d 992, 996 (5th Cir. 1980), cert. denied, 451 U.S. 913 (1981). Defendant has only shown (1) that Peggy Crawford watched three television newscasts that were accounts of how the jury selection process was progressing, and (2) that

John Wesley Davis *may* have heard radio news accounts and did see at least one "newsbreak" regarding the selection process. Defendant has not pointed to *anything* negative or adverse in these news accounts. Nor has he shown that the news accounts in any way affected the impartiality of these jurors.

Defendant is entitled to "a panel of impartial, 'indifferent' jurors" who decide the case based on the evidence adduced at trial. *Mayola* v. *State of Alabama*, *supra*, 623 F.2d at 998. The constitutional standards of fairness, however, do "not require jurors to be wholly ignorant of the case." *Id.* Defendant has failed to show that he was in any way prejudiced by the very limited contact these jurors had with news accounts of the trial. Accordingly, the Court finds defendant's argument to be without merit.

5. *Perjured Testimony*

Defendant next contends that he is entitled to a new trial because Bud Holmes' testimony was perjured. In order to obtain a new trial based on a perjury allegation, defendant must show the following:

(1) the statements actually were false;

(2) the statements were material, i.e., "a highly significant factor reasonably likely to have affected the judgment of the jury"; and,

(3) the prosecution knew they were false.

United States v. *Mack*, 695 F.2d 820, 822-23 (5th Cir. 1983). *See also* *United States* v. *Chagra*, 735 F.2d 870, 874 (5th Cir.

1984). For the following reasons, the Court finds defendant's argument without merit.

The Court gave defendant an opportunity during the post-trial evidentiary hearing to demonstrate the alleged perjury. Defendant has failed to show that Holmes' testimony was, in fact, perjurious. During trial, Holmes testified that the "phone call incident" occurred prior to his passing Drew Fairchild's case to the files[4]. Holmes tried to date the phone call in various ways. He testified that he believed the call took place on May 14, 1982--the night before he attended a wedding, the night of a hair-pulling incident between his girlfriend and secretary, and the night defendant came to his farm to pick up some turkeys Holmes was keeping. Holmes emphasized, and stated repeatedly, that it could have been a different day. He stated he was only certain that the call preceded passing Fairchild's case to the files.

Defendant's evidence did not show that the call did not occur prior to Fairchild's case being passed to the files. Defendant's evidence, at best, tended to impeach Holmes' recollection that the call occurred on the night of the hair-pulling incident and on the night defendant was at Holmes' farm to pick up some turkeys. Defendant's evidence fell short even on these two points.

4/ Records introduced at trial reflect that Fairchild's case was passed to the files in December, 1982

With respect to the hair-pulling incident, Katie Matison testified she first learned of the incident in 1983 and felt it had been a "recent occurrence." She was not a witness to the incident but is convinced it occurred in 1983.[5]

Juxtaposed to Matison's testimony is the stipulation between counsel that six government witnesses would testify that the hair-pulling incident occurred in the spring of 1982. In addition, Meg Cosby testified that she learned of the incident from Prentiss Smith while she worked for Smith prior to her leaving to move to Alabama in July, 1982. She also recalled discussing the matter with one of the participants prior to the end of August, 1982.

It is clear that there is conflicting testimony on when the hair-pulling incident occurred. Defendant has failed to prove, however, that Holmes' testimony on this point was false. Defendant has, therefore, failed to establish the first element of falsity with respect to the hair-pulling incident.[6]

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[5] Defendant has argued that the government chose not to put on their rebuttal witnesses at trial after learning that Katie Matison would contradict them. Counsel for defendant has stated that government counsel were convinced that their rebuttal witnesses were ready to perjure themselves to support Holmes' testimony. The Court has considered all the testimony on this point including that of Assistant United States Attorney Weingarten and rejects defendant's argument. Weingarten has specifically denied that he was convinced Katie Matison's testimony was accurate. The Court believes that the decision not to call the rebuttal witnesses was a tactical one and not one based on a belief that the rebuttal witnesses were prepared to commit perjury.

Defendant also challenged Holmes' dating of the occasion defendant picked up turkeys at Holmes' farm. Prentiss Smith testified that he recalled a hunting trip to Vicksburg in 1983. Smith introduced invoices which reflected a chartered airplane trip to Vicksburg in 1983. He further testified that he "learned" that defendant had been hunting there and was giving some turkeys to Holmes. Dan McDonald testified that he too was on this trip in 1983 and also recalled defendant's turkeys being given to Holmes.

The testimony of these individuals is also suspect. Prentiss Smith is the father of Katie Matison. During trial, Matison was interviewed by the prosecution team in the company of her father. Smith was asked at that time about this trip to Vicksburg and could not recall defendant even being present in Vicksburg. At the post-trial hearing, Smith could not recall who told him about the turkeys or any other conversations. He had no first-hand knowledge of turkeys being exchanged in Vicksburg and could recall little else about the trip.

6/ Although the Court need not look to the materiality of the statement because the statement has not been proven false, the Court is not convinced of its materiality. The timing of the hair-pulling incident is one event Holmes used to date the phone call. Holmes emphasized, however, that he could be wrong on the exact dating but was certain the call preceded passing Fairchild's case to the files. Even if defendant conclusively established that the hair-pulling incident occurred in 1983, the Court is not convinced of the materiality of that fact given Holmes' admitted uncertainty of precise dates.

Dan McDonald did not have any first-hand knowledge of turkeys being given to Holmes in Vicksburg. Neither did he recall who told him about this or any other conversations during the trip. In fact, McDonald remembered little about the trip except that Holmes was taking turkeys to Hattiesburg for defendant. The Court has difficulty finding the testimony of Smith and McDonald credible.

Even if the Court accepted the testimony of these witnesses, defendant has still not proven that Holmes' testimony was perjured. Defendant testified at trial that he went turkey hunting every year and that he and Holmes had been to Vicksburg together more than once. The Court also notes that Holmes testified that he believed the phone call took place when defendant picked up his turkeys but was not sure of the exact date of the call. Holmes stated that he could be mistaken as to the exact date of the call but is certain it occurred prior to Fairchild's case being passed to the files.

The crucial testimony is Holmes' statement that the phone call preceded Fairchild's case being passed to the files. Holmes was corroborated on this point by Wiley Fairchild and Carroll Ingram. Holmes admitted uncertainty with respect to specific dates. Defendant has not established that Holmes' testimony was perjured in any way and certainly not on the material testimony that the phone call preceded Fairchild's case being passed to the files. Accordingly, the Court will not grant defendant a new trial on this ground.

6. Dental Records

Defendant's final argument is that he should be granted a new trial because the government failed to produce dental records of defendant which reflect treatment received in Hattiesburg on May 14, 1982. Bud Holmes, of course, stated that his best recollection was that the phone call occurred on May 14, 1982 although he was not certain of that specific date and that "it could have been a different date."

Defendant argues that he should have received these records under Rule 16, F.R.Crim.P., because they were "material" to preparation of the defense. The government stated that it did not discover these records in their files until after trial when they were preparing for the post-trial evidentiary hearing.[7] The Court has heard arguments of counsel and considered this matter and has determined that whether or not the documents should have been produced with the Rule 16 production, defendant has not been prejudiced by non-disclosure. Indeed, the government was prejudiced by not having these records available at trial.

At trial, defendant tried to establish that he was in Biloxi on May 14, 1982. The dental records show he was in Hattiesburg at 3:00 p.m. receiving dental treatment. Although

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[7] The Court finds that the government acted in good faith. These documents were certainly not hidden from defendant intentionally. In fact, the government's case would have been bolstered had the records been available for use at trial.

Holmes admitted the phone call from the farm could have occurred on another date, the government certainly was trying to show that it *could* have occurred on May 14. Hence, the dental records only help the government and hurt defendant. The Court fails to see how defendant was prejudiced by not receiving these records.[8]

The Court does not find that defendant was prejudiced in any way by the government's inadvertent failure to disclose these records. Accordingly, defendant's motion for a new trial on this ground is denied.

Conclusion

For the foregoing reasons, defendant's Motion for Judgment of Acquittal or, in the alternative, for a New Trial on Counts III and IV is denied.

James H Meredith
United States District Judge

Dated: April 11, 1986

8/ The Court also notes that this is not a case where the documents were not disclosed prior to trial and were then used by the government at trial. As government counsel stated on the record, the government was prejudiced by not having these records at trial.

UNITED STATES of America,
Plaintiff-Appellee.

v.

Walter L. NIXON, Jr.,
Defendant-Appellant.

No. 86-4248.

United States Court of Appeals,
Fifth Circuit.

April 30, 1987.

Defendant-judge was convicted in the United States District Court for the Southern District of Mississippi, James H. Meredith, J., sitting by designation, of perjury before a federal grand jury, and he appealed. The Court of Appeals, Van Graafeiland, Circuit Judge, sitting by designation, held that: (1) evidence supported finding that defendant-judge gave false testimony and that defendant-judge knew testimony was false, and (2) evidence of defendant-judge's investment in oil property was for jury, and District Court did not err in refusing to dismiss bribery charge against defendant-judge at conclusion of proof.

Affirmed.

1. **Perjury 🔑1**

To obtain perjury conviction, Government must prove that defendant's statements were material, that they were false, and that, at time they were made, defendant did not believe them to be true.

2. **Perjury 🔑33(1)**

Evidence supported finding that defendant-judge's testimony before federal grand jury regarding his possible intervention in individual's prosecution was false, and that defendant-judge knew testimony was false, thus supporting his conviction for perjury; defendant-judge testified before grand jury that he had not talked to county district attorney about charges against individual, while witnesses testified that defendant-judge had gone to district attorney in attempt to get district attorney to carry through on plea agreement with individual, and district attorney testified that during perjury investigation defendant-judge had attempted to determine whether conversation in which individual's case was discussed had been tape recorded. 18 U.S.C.A. § 1623.

3. **Criminal Law 🔑1044.1(2)**

Joinder for trial of one count of bribery and three counts of perjury against defendant did not constitute prejudicial error where defendant did not move for severance of bribery count and where proof on all four counts was intertwined.

4. **Indictment and Information 🔑121.1(1)**

Purpose of bill of particulars is to minimize surprise by giving sufficient notice of charge for its defense, and district court's decision to deny demanded particulars is discretionary and will not be reversed absent showing of surprise and substantial prejudice.

5. **Bribery 🔑13**

Evidence of defendant-judge's investment in oil property with assistance of individual, and backdating of documents evidencing investment so they antedated case in which individual's son was involved and in which defendant-judge allegedly attempted to improperly intercede, was for jury in defendant-judge's trial on bribery count.

Synopsis, Syllabi and Key Number Classification
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RECEIVED
U.S. COURT OF APPEAL.
FIFTH CIRCUIT
FEB
CIRCUIT EXECUTIVE

REPORTED AT
816 F.2d 1022

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 32

Appeal from the United States District Court for the Southern District of Mississippi.

Before VAN GRAAFEILAND,* GARWOOD, and JONES, Circuit Judges.

VAN GRAAFEILAND, Circuit Judge:

Walter L. Nixon, Jr. (hereinafter "appellant") appeals from a judgment of the United States District Court for the Southern District of Mississippi, convicting him of perjury before a grand jury. 18 U.S.C. § 1623. We affirm.

Although appellant's trial was a lengthy one, the events leading to his grand jury testimony may be fairly briefly summarized. Appellant had been a judge of the very court in which he was convicted since 1968, and Chief Judge of that court since 1982. A married man with three children, he had for some years prior to the incidents at issue herein been dissatisfied with his modest judicial salary, and had looked for means of augmenting it. In 1980, he found these means in the person of Wiley Fairchild, a successful investor in oil and gas properties. Through the intercession of Carroll Ingram, Fairchild's attorney, appellant was able to purchase an interest in three oil well properties at an extremely modest price. By the time appellant's case went to trial in 1986, appellant had recouped his investment some six times over.

Fairchild, the source of appellant's good fortune, had a son, Reddit Andrew Fairchild, more generally known as "Drew". With a partner named Bob Royals, Drew operated a business at the Hattiesburg Municipal Airport, in which, among other things, they serviced airplanes. In August 1980, Drew and Royals conspired with several others to pick up a load of marijuana in Colombia and fly it to the United States. Drew's and Royals' role was to provide confidential access to the airport and to refuel the plane. *See United States v. Royals*, 777 F.2d 1089 (5th Cir.1985). The conspiracy was brought to an abrupt halt by law enforcement officials who met the plane at the airport.

Despite Drew's admitted participation in the conspiracy, he was not indicted by a federal grand jury until March 29, 1985. The events which intervened were somewhat bizarre. Although Drew was not arrested at the scene of the crime, he was concerned that eventually he would be. Three of Drew's coconspirators were indicted by a federal grand jury on August 19, 1980, and, shortly thereafter, Drew sought legal help. He and attorney William Porter went to Forrest County District Attorney Paul ("Bud") Holmes to discuss Drew's situation, and Holmes sent them to United States Attorney George Phillips, who was overseeing the prosecution of the indicted conspirators. The end result of their meeting with Phillips was a "Memorandum of Understanding", executed on November 19, 1980, in which Drew agreed to plead guilty and to cooperate with the Government, in exchange for which the Government would recommend a five-year sentence with execution suspended and a $15,000 fine.

Porter then requested $10,000 in payment for his services. Upon Drew's refusal to pay, Porter commenced suit against him in March 1981. When Drew was questioned by his father, he told his father that he thought Porter had spent about twenty-five hours on his case. Unknown to Drew, his father then sent Porter a check for $2,669.19 on July 3, 1981. Porter insisted, however, that he was entitled to the full amount of his bill, and he complained to his friend Holmes about his inability to collect it. Concluding that an indictment of Drew would help bring about payment of the balance of Porter's fee, Holmes, after clearing the matter with United States Attorney Phillips, presented the case against Drew and a theretofore unindicted coconspirator, Robert Watkins, to a State grand jury. On August 26, 1981 the grand jury returned an indictment against both Drew and Watkins. On September 3, 1981, the day on which Drew was arraigned, his father gave Porter a check for $7,500.

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* Circuit Judge of the Second Circuit, sitting by designation.

Thereafter, Drew agreed to testify against Watkins in return for assurances from Holmes that he would receive five years probation and a $5,000 fine. On January 12, 1982 he pled guilty, and sentencing was scheduled for March 19, 1982. Because Drew was recovering from back surgery in March, his sentencing was continued to the July 1982 term. Thereafter, it was continued to the August term, to the November term, and then indefinitely. On December 23, 1982 Holmes moved successfully to have Drew's case "passed to the file", a procedure which places cases in an inactive status and generally results in their termination.

In Drew's case, however, the media, in his words, "made a big issue of it", and his case remained "in the file" for only three weeks. When Holmes was asked why this was so, he testified in part:

> Well, because I had made the statement once Watkins [who had been a fugitive] got back I was going to open it up. That and the fact it was an awful lot of publicity on it, the television, newspapers had picked it up, they were talking about the fact this very wealthy, son of a very, very wealthy man in Hattiesburg, like his case had been swept under the rug, they were editorializing about it. I made the public statement that when we got Watkins got back up here I was going to bring it back out of the file if we could get him.

Although the reinstated case was assigned to a different judge, Drew still was not called for sentencing. His case was continued through 1983 and 1984 and into March 1985, when the Forrest County Circuit Judge to whom the case had been reassigned announced that he would not honor Drew's plea agreement. Drew then was indicted in federal court, and, after pleading guilty, was sentenced to six months in prison.

When the FBI was informed of appellant's oil deal with Fairchild, it suspected that there might be an illicit relationship between it and the somewhat unusual treatment of Fairchild's son. It began an investigation which culminated in the presentation of evidence to a federal grand jury. Appellant voluntarily appeared and testified. The grand jury returned an indictment charging appellant with one count of bribery and three counts of perjury. He was acquitted on the bribery count and the first perjury count but was convicted on the remaining two counts of perjury.

The first count on which appellant was convicted was based on the following allegedly false testimony before the grand jury:

> Q. The grand jury has heard evidence that the prosecutor, the state prosecutor, who eventually handled the case was an individual named Bud Holmes. Is he a friend of yours?

A. Very good friend of mine, long time friend, yes.

Q. Did he ever discuss the Drew Fairchild case with you?

A. No, not to the best of my recollection. I think I would recall if he had.

The second such count was based on the following testimony.

All right. Judge, do you have anything you want to add?

THE WITNESS:

Yes, I do.

I want to say this. I—Here (indicating) are your notes too, copies of your instruments, rather.

I came here voluntarily and am very happy to cooperate with this grand jury and give them all the information that I have and that I could. And I have always thought everyone should do that, and that goes for the grand jury over which I'm supervising right now, the other federal grand jury that's sitting at this time. I have nothing at all to—had nothing to hide or nothing to withhold and I brought everything that you asked me to bring.

And I want to say this. That I've been told and led to believe and read in the newspaper and heard on the news media so much about this is an investigation of the Drew Fairchild criminal case. Now, I have had nothing whatsoever officially or unofficially to do with the Drew Fairchild criminal case in federal court or state court. I don't need to reconstruct anything with reference to that. I've told you that from the beginning.

I have never talked to anyone about the case, any federal judge or state judge, federal prosecutor or state prosecutor, and I never handled any aspect of this case in federal court. As you said, Judge Cox handled it. I don't know where—someone told me maybe Judge Russell handled one of the other defendants also and—but I never handled any part of it, never had a thing to do with it at all, and never talked to anyone, state or federal, prosecutor or judge, in any way influence anybody with respect to this case. Didn't know anything about it until I read that account in the newspaper. Didn't even know Mr. Fairchild had a son when I was dealing with him in the business transaction.

So I want to say that because I understand that's what this is all about. The investigation is apparently, if the news media is correct, and if I understand it correctly, that's what this is about, the Drew Fairchild criminal case.

Some of the testimony offered by the Government in support of its claim that the foregoing testimony was false is substantially undisputed. It is undisputed that on one occasion, the exact date being unclear, appellant visited Wiley Fairchild in Fairchild's office. Fairchild testified that he sought out appellant because appellant was a good friend of Holmes and Fairchild "wanted [appellant] to get Bud Holmes to do what he had promised to do." In response to questions by his own attorney, appellant summarized this portion of his conversation with Fairchild as follows:

Q. Did he ask you to do anything?

A. No.

Q. Did he discuss or you discuss with him in any way the case of Drew Fairchild?

A. No, I did not.

Q. Did you get the impression from him that he wanted you to say anything to anyone about it?

A. I got the impression that he wanted me to mention something about that to Bud Holmes.

Q. Did he make any request of you to do so?

A. No, he didn't.

It is undisputed that, following this conversation, appellant went to Holmes' farm. Holmes testified that he and appellant went there in Holmes' car; appellant said that he drove his own car. Holmes testified further that, en route to the farm, the following conversation took place:

> We was riding up to pick up the turkeys, this would have to be 6, 6:30, 7 o'clock, riding out, and Judge Nixon told me, he said, Bud, I never would have asked you to do anything against your oath of office, never asked you to do anything embarrassing to you, wouldn't ask you to do anything wrong. I said, yes, sir. He said, I was out at Mr. Fairchild's and he asked me to put in a good word for his boy, or would I say something to you about Drew. —I think, I don't think he said Drew, I think he said his boy. I said, you know, well, I don't know. I don't know. What is it you want? You want an apology? I don't know. What does the man want?
>
> Q. Are you saying did you say that to Judge Nixon?
>
> A. Yeah, that was about my response. I can't remember this, because as I recall this was like in May of 82, you know, when this occurred. But that was about my response, I mean, I was feeling rich and good-looking and, you know, that would have been my typical type answer. He said I'm not asking you to do anything, I'm just saying that Mr. Fairchild asked me to put in a good word. Well, I knew Mr. Fairchild and the judge were kind of getting to be buddy-buddies there.
>
> Q. How did you know that?
>
> A. Pardon?
>
> Q. How did you know that?
>
> A. He had told me, or Carroll Ingram had told me that they were or he told me, could a come from Mr. Fairchild.
>
> Q. Did he tell you why he'd called Mr. Fairchild?
>
> A. He could have. I don't recall off hand, it seemed like he might have told, somewhere during the conversation I knew there was a chance he was going to make some more oil and gas investments with him. Seemed like he said maybe Mr. Fairchild said they were going to take a trip somewhere, you know, now what point in time, I don't remember but all this was, at that time it was nothing real important to me to really remember, so, don't hold me and say it occurred on that time but general impression I had was they got to be on a first name type basis and friendly. So, I took it on myself, said, well, judge, hell, I'm district attorney, I'll pass it to the files. And he said no, I'm not asking you to do that. Now, I'm not asking you to do anything now.

Holmes also testified concerning what transpired after he and appellant reached the farm:

> Well, okay. We rode on out to the farm, got the turkey, went inside. I asked him to come in, have a drink.
>
> Q. Whose house did you go to?

A. Go to mine, which was out in the Barrington community. We went inside. He said that he'd come in and have a drink, if I had some Royale Salute, that's kind of a joke between us, very expensive scotch whiskey, somebody gave it to me for Christmas a year earlier and I said I did. He came in, we had a drink, probably had a couple of drinks, and I had told him that I had already had this arrangement worked out with Bill Porter, the man had the same agreement that the federal court had offered, which was probation and a fine, in return for his cooperation. He said do you mind if I call and tell Wiley? Or he could have said, Wiley, Mr. Fairchild. He said did he know? I don't know. I assume he did. Carroll Ingram sure knew it. And so he said do you mind if I tell him? I said no, I don't care.

So he called him and as I recall the conversation it's something like—

Q. Who made the telephone call?

A. Pardon?

Q. Who made the telephone call?

A. He did. And he told him, he said, I'm out at, said do you remember the man we were talking about today? I'm out at his farm and he tells me that your son isn't going to jail, which was true, you know, because of the plea arrangement and I just wanted to call and tell you that. And he thanked him, told him I appreciate you letting me make some of these investments, you know, with you, and he said, you know, the judge's salary and the number of children that I'm trying to educate and so forth, it was kind of hard and I do appreciate this opportunity.

And, with that, I told him, I said let me speak to him. And I picked the phone up and I said, Mr. Fairchild, I want to let you know. I hope you don't think there's anything personal about Drew and us and he said no, I never thought that. I'm real embarrassed about that and so forth and I take full blame here because Judge Nixon did not ask me to say or do this, but I told him, I said, I said I want to let you know that I want Judge Nixon to have credit for helping the boy. Of course I was misleading him because I already had the arrangement worked out with Bill Porter.

And I told him, I said I'm going to pass the case to the files. You know, I told Mr. Fairchild that. And that was, you know, basically the sum and substance of it.

Appellant's testimony corroborated that of Holmes in part and contradicted it in part:

Q. Tell us what happens.

A. Well, we were talking and this thing was just weighing on my mind what Mr. Fairchild had accused him of.

Q. Tell us what you said; what he said.

A. I said Bud, I've been talking to Wiley Fairchild. And I said he is accusing you of blackmailing him. He said—I said with reference to this matter some matter with his son. And—

Q. Did you mention to him—now listen to my question. You mentioned the blackmail. Did you mention to him at all how you understood he was being blackmailed?

A. Yes, what I understood by blackmail, Mr. Fairchild indicated to me talking about dragging the good Fairchild name through the mud in the news media.

Q. When you told that to Bud, what did he say? Tell us exactly what you remember him saying?

A. He said the son of a bitch is paranoid. He said everybody is after his money, he's got so much he'll never be able to spend it, he's crazy.

Q. What else did he say?

A. He said let me tell you about the case.

Q. What did you say?

A. Bud, I don't want to hear about the case.

Q. Let me stop you a second. Was there anything wrong in your hearing about the case?

A. No, I'd have been there all night because it takes Bud an hour to tell you what anybody else could tell you in a minute.

Q. Did you have any interest in hearing about the case?

A. No.

Q. When you told him that you didn't want to hear about the case, what did he say?

A. He said well, the thing's all worked out anyway. He said, I don't understand what he's talking about.

Q. Did he tell you anything else?

A. I don't recall that he did.

Q. Was there any—he told you when he said to you the thing's worked out, he doesn't know what he's talking about?

A. Yes.

Q. Did you say anything more than that to him?

A. No.

* * * * * *

Q. Coming back all seriousness while you're there listening to records having a drink and looking at the records, while he's making these calls, tell us what else occurs?

A. In a few minutes he said, called me over, judge come here a minute. He called me judge and I called him Bud. He handed me the telephone. He said here, talk to Wiley Fairchild.

Q. Go ahead.

A. So I took the phone and I told him hello and he said how are you judge, and I don't know whether Mr. Fairchild was half asleep or half drunk or what but he didn't sound just right. And he said I'm glad you mentioned that matter to Bud. He said I'm satisfied.

Q. Anything else?

A. No.

Q. What did you do with the phone?

A. I handed it back to Bud. When he handed it to me, he told me he wanted to talk to him again when I got off.

Q. Do you have any awareness at that point what Bud had said to Wiley before he handed you the phone?

A. No.

Q. What was your state of mind or how did you feel about Bud having made that call to Wiley?

A. Well, I was taken aback. I didn't know he was going to call Wiley Fairchild.

Q. Did Bud then speak to him for another minute or two?

A. I guess so. I handed him the phone and walked back over by the records. I was disgusted.

Q. Did you say anything to Bud after he got off the phone?

A. Yeah, I said Bud, why did you call Wiley and what did you say to him. He said I just wanted to get the damn thing straightened out.

Q. That's it?

A. That's all.

Unfortunately for appellant, Holmes' testimony concerning the telephone call to Fairchild was corroborated by Fairchild himself:

Q. Okay. Did you have subsequent contact with Judge Nixon about your meeting?

A. He called me that night just about seven o'clock.

Q. What did he say?

A. He said Wiley, you know that man we was talking to this evening? I said yeah. He said well, I'm in his home, and everything going to be taken care of to your satisfaction. I says thank you, I appreciate that.

Q. Did you recognize the voice at the other end?

A. Yeah.

Q. Did he identify himself?

A. No.

Q. How did you recognize his voice?

A. I just can recognize voices.

Q. What followed that conversation with Judge Nixon?

A. Bud got on the phone, Bud Holmes.

Q. And did you recognize his voice?

A. Oh, yeah. Yeah.

Q. What did he say to you?

A. He said Wiley, when this man asks me to do something, I don't ask no questions, I just go ahead and do it.

Q. What did you say?

A. I said thank you, Bud. I appreciate that.

Q. Was there any further conversation?

A. No.

Q. What's the next thing that you recall happening in your son's case?

A. Well, it was later passed to the file.

Holmes' testimony also was substantially corroborated by Carroll Ingram:

Q. ... [Wiley Fairchild] mentioned to you that he had asked something of Judge Nixon in terms of asked him to speak to Bud Holmes, correct?

A. Yes, he asked to—

Q. I beg your pardon. Go ahead.

A. Yes, he said that he asked Judge Nixon to speak to Bud Holmes.

Q. And that it was about the case?

A. And it was about Drew Fairchild's case.

Q. And that's as far as you went. You know nothing more than from Wiley Fairchild about it, correct?

A. I know that Wiley Fairchild told me that Judge Nixon confirmed that he had spoken to Bud Holmes about the case.

Q. Excuse me. Judge Nixon confirmed that to you yourself?

A. Certainly he did.

* * * * * *

Q. In fact, Judge Nixon had volunteered to you that on one occasion he had in fact, at Wiley Fairchild's request, spoke about Drew Fairchild to Bud Holmes?

A. He certainly had, absolutely.

[1] To obtain a perjury conviction, the Government must prove that the defend-

ant's statements were material, that they were false, and that, at the time they were made, the defendant did not believe them to be true. *United States v. Fulbright*, 804 F.2d 847, 851 (5th Cir.1986). The materiality of appellant's challenged grand jury testimony was a question of law for the trial judge. *United States v. Thompson*, 637 F.2d 267, 268–69 (5th Cir.1981). Appellant does not challenge the correctness of the district judge's holding that the subject matter of appellant's testimony was material to the grand jury's investigation.

[2] The evidence on the remaining issues must, of course, be viewed in a light that is most favorable to the Government, with all reasonable inferences and credibility choices made in support of the jury's verdict. *Glasser v. United States*, 315 U.S. 60, 80, 62 S.Ct. 457, 469, 86 L.Ed. 680 (1942); *United States v. Lamp*, 779 F.2d 1088, 1092 (5th Cir.), *cert. denied*, — U.S. ——, 106 S.Ct. 2255, 90 L.Ed.2d 700 (1986). The standard is the same whether the evidence is direct or circumstantial. *Glasser*, *supra*, 315 U.S. at 80, 62 S.Ct. at 469; *United States v. Escobar*, 674 F.2d 469, 477 (5th Cir.1982). We did not see or hear the witnesses testify; the jury did. After viewing the cold and impersonal record in the light most favorable to the Government, we must affirm if "*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 2789, 61 L.Ed.2d 560 (1979); *see United States v. Shaw*, 701 F.2d 367, 392 (5th Cir.1983), *cert. denied*, 465 U.S. 1067, 104 S.Ct. 1419, 79 L.Ed.2d 744 (1984). This is so because a jury may choose its verdict among reasonable constructions of the evidence so long as the evidence establishes guilt beyond a reasonable doubt. *United States v. Thomas*, 768 F.2d 611, 614 (5th Cir.1985) (*quoting United States v. Bell*, 678 F.2d 547, 549 (5th Cir.1982) (en banc), *aff'd on other grounds*, 462 U.S. 356, 103 S.Ct. 2398, 76 L.Ed.2d 638 (1983)). Viewing the evidence in the manner above described, we can reach no other conclusion save that it warranted the jury in finding that appellant's testimony was false.

The jury also could properly find that appellant knew his testimony was false. Such knowledge can be, and usually must be, proved from circumstantial evidence. *See United States v. Caucci*, 635 F.2d 441, 444 (5th Cir.), *cert. denied*, 454 U.S. 831, 102 S.Ct. 128, 70 L.Ed.2d 108 (1981). Holmes testified on behalf of the Government that, during the FBI's investigation, appellant called him and said that he had told the investigators that "he never talked to anyone at anytime about the case." Appellant subsequently made the same statement to Holmes in a face-to-face meeting, and then asked Holmes to find out whether appellant's telephone conversation with Fairchild from the farm had been taped. It had not. A reasonable jury could conclude from these conversations that appellant was planning to hide the true facts from the grand jury and was soliciting Holmes' support. *See United States v. Abrams*, 568 F.2d 411, 419 (5th Cir.), *cert. denied*, 437 U.S. 903, 98 S.Ct. 3089, 57 L.Ed.2d 1133 (1978).

There is no merit in appellant's belated attempt to argue ambiguity. There certainly is no ambiguity in the question, "Did [Holmes] ever discuss the Drew Fairchild case with you?". This was not a question that required a recollection covering a full lifetime, but necessarily was limited to the period following Drew's indictment and Holmes' retirement from office in 1984.

Its clarity was amply demonstrated by appellant's voluntary comments that followed, in which he said that he had read in the newspapers that "this is an investigation of the Drew Fairchild criminal case", and that he "didn't know anything about it until [he] read that account in the newspaper"; that he had "never talked to anyone, state or federal, prosecutor or judge, in any way influence anybody with respect to this case." The record shows that appellant answered the question without hesitancy, evasion, or qualification. *United States v. Caucci, supra*, 635 F.2d at 445. If in the natural meaning in the context in which his words were used they were materially untrue, perjury was established. *United States v. Bonacorsa*, 528 F.2d 1218, 1221 (2d Cir.), *cert. denied*, 426 U.S. 935, 96 S.Ct. 2647, 49 L.Ed.2d 386 (1976).

There was no need for the district court to define the word "discuss" for the jury. "[W]ords that are clear on their face are to be understood in their common sense and usage." *United States v. Fulbright, supra*, 804 F.2d at 851. Appellant's counsel had no hesitancy in using the same word in questioning his client; *e.g.*, "Did he discuss or you discuss with him in any way the case of Drew Fairchild?"; "What if any discussion do [sic] you have with him at that time?".

We also conclude that appellant's reliance on *Bronston v. United States*, 409 U.S. 352, 93 S.Ct. 595, 34 L.Ed.2d 568 (1973), is misplaced. In *Bronston*, the Supreme Court held that the federal perjury statute does not reach a literally true but unresponsive answer, even if the witness intended to mislead his questioner and even if the answer was arguably false by negative implication. Appellant argues that the prosecutor could not have intended his question to refer to the discussion appellant did have with Holmes, because the prosecutor knew nothing about the discussion until after appellant testified. For this reason, appellant argues, the prosecutor's question was impermissibly vague and imprecise under the rationale of *Bronston*. We find this argument unpersuasive. The purpose of a grand jury inquiry is to discover whether a crime has been committed and, if so, who committed it. *In re Marc Rich & Co., A.G.*, 707 F.2d 663, 665–66 (2d Cir.), *cert. denied*, 463 U.S. 1215, 103 S.Ct. 3555, 77 L.Ed.2d 1400 (1983). *Bronston* does not require that a prosecutor know how a defendant will answer a question before he asks it.

[3] Appellant makes numerous allegations of prosecutorial misconduct, which are not of significant merit, separately or collectively, to require individualized discussion. We see no prejudicial improprieties in the Justice Department's interview of appellant during its preliminary investigation, the tape of which was placed in evidence by the defense. No objection concerning alleged grand jury abuse was made below, and no meritorious objection has been made to this Court. *See United States v. Calandra*, 414 U.S. 338, 343–45, 94 S.Ct. 613, 617–18, 38 L.Ed.2d 561 (1974); *United States v. Brown*, 574 F.2d 1274, 1275–77 (5th Cir.), *cert. denied*, 439 U.S. 1046, 99 S.Ct. 720, 58 L.Ed.2d 704 (1978). See also *United States v. Mechanik*, — U.S. —, 106 S.Ct. 938, 89 L.Ed.2d 50 (1986). There is no merit in appellant's contention that the bribery count was insufficient as a matter of law. "An indictment returned by a legally constituted and unbiased grand jury. . . . if valid on its face, is enough to call for trial of the charge on the merits." *Costello v. United States*, 350 U.S. 359, 363, 76 S.Ct. 406, 408,

100 L.Ed. 397 (1956). Appellant did not move for severance of the bribery count. Since the proof on all four counts was necessarily intertwined, no prejudicial error resulted from the fact that they were tried together. *United States v. Duzac*, 622 F.2d 911, 913 (5th Cir.), *cert. denied*, 449 U.S. 1012, 101 S.Ct. 570, 66 L.Ed.2d 471 (1980); *see United States v. O'Connell*, 703 F.2d 645, 648–49 (1st Cir.1983).

Appellant grasps at straws in arguing that the prosecutor misstated the evidence he proposed to produce when he opened to the jury and misstated the evidence actually produced when he summed up. In evaluating allegations of such prosecutorial misconduct, the "test ... is whether the remarks were improper and whether they prejudicially affected substantial rights" of the defendant. *United States v. Dorr*, 636 F.2d 117, 120 (5th Cir.1981); *see Darden v. Wainwright*, — U.S. ——, 106 S.Ct. 2464, 91 L.Ed.2d 144 (1986). We have carefully reviewed the prosecutor's comments in the context of the entire case, including the district court's admonishments to the jury that statements by counsel were not evidence, *see Donnelly v. DeChristoforo*, 416 U.S. 637, 643, 94 S.Ct. 1868, 1871, 40 L.Ed.2d 431 (1974); *United States v. Cardenas*, 778 F.2d 1127, 1130–31 (5th Cir. 1985), and we are completely satisfied that they pass this test. In view of the complete lack of merit in appellant's argument, we see no need for a more detailed discussion.

[4] Appellant's contention that he was denied due process and a fair trial because all of the requested information in his demand for a bill of particulars was not furnished, is without substance. The purpose of a bill of particulars is to minimize surprise by giving "sufficient notice of a charge for its defense." *United States v. Carlock*, 806 F.2d 535, 550 (5th Cir.1986). A district court's decision to deny demanded particulars is a discretionary one which will not be reversed absent a showing of surprise and substantial prejudice. *Id.* Appellant has made no such showing.

[5] Equally without substance is appellant's claim that he was prejudiced by the district court's "erroneous" refusal to dismiss the bribery charge at the conclusion of the proof. In response to appellant's motion for acquittal, the prosecutor pointed out that appellant had already made $50,000 profit "with more to come" on a $9,000 investment, and that there was ample evidence that appellant had rendered assistance to his benefactor's son. There was also proof in the case that the documents evidencing appellant's oil property investment had been backdated so that they antedated the aborted drug conspiracy by approximately six months, and that the name of the grantee was withheld from Fairchild's employee who prepared the deeds of conveyance. Despite this evidence, the jurors rejected the Government's claim of bribery. This does not mean, however, that they should not have been permitted to consider it. In any event, appellant has not shown that the denial of his motion tainted the jury's consideration of the three perjury counts, on one of which appellant was acquitted. *See United States v. Zicree*, 605 F.2d 1381, 1388–89 (5th Cir.1979), *cert. denied*, 445 U.S. 966, 100 S.Ct. 1656, 64 L.Ed.2d 242 (1980).

Appellant's unspecified and unsubstantiated claims of evidentiary error do not merit discussion. Neither does appellant's claim of error in the court's denial of his motion for a new trial on the ground of "newly discovered evidence." The district court gave careful consideration to the alleged newly discovered evidence, which was addressed to the date of appellant's conversations with Fairchild and Holmes. It held that, to a large extent, the evidence was not credible and that, in any event, it was not probative of meaningful error in the date which Holmes had assigned. We agree.

The judgment of conviction is affirmed.

Adm. Office, U.S. Courts—West Publishing Company, Saint Paul, Minn.

**UNITED STATES of America,
Plaintiff-Appellee.**

v.

**Walter L. NIXON, Jr.,
Defendant-Appellant.**

No. 86-4248.

United States Court of Appeals,
Fifth Circuit.

Sept. 8, 1987.

Defendant-judge was convicted in the United States District Court for the Southern District of Mississippi, James H. Meredith, J., sitting by designation, of perjury before federal grand jury. Judge appealed. The Court of Appeals, 816 F.2d 1022, affirmed. Judge petitioned for rehearing and sought rehearing en banc. The Court of Appeals held that: (1) affirmative vote of majority of all judges in regular active service was required in order to grant rehearing en banc, even though eleven of fourteen judges had recused themselves; (2) senior circuit judges could not be designated to participate in reviewing en banc suggestion; and (3) requiring majority of judges to vote for rehearing en banc did not violate equal protection and due process.

Petition for rehearing and suggestion for rehearing denied.

1. Criminal Law ⚷1133

Rehearing en banc could not be granted upon vote of less than majority of judges, who were in regular active service and who had not recused themselves; rule, that required majority vote of all judges in regular active service, including those who had recused themselves, would not be modified. U.S.Ct. of App. 5th Cir.Rule 35.6, 28 U.S.C.A.

2. Criminal Law ⚷1133

Statute, which permits only circuit judges in regular active service to make determination to rehear case en banc, controlled over general provisions of statute, which permits Chief Justice of United States to assign circuit judge temporarily to act as circuit judge in another circuit and statute, which governs assignment of retired judges to active duty, thus, senior circuit judges could not be assigned to decide whether to grant rehearing en banc after majority of circuit judges had recused themselves. 28 U.S.C.A. §§ 46(c), 291(a), 294(c).

3. Criminal Law ⚷1133

No occasion existed for acting chief circuit judge to present certificate of necessity to Chief Justice of United States for assignment of circuit judge from another circuit to act on petition for rehearing and petition for rehearing en banc, after eleven circuit judges recused themselves; en banc court consisting of three judges of circuit in regular active service was permissible; and three judges in regular active service had not recused themselves. 28 U.S.C.A. § 291(a).

4. Criminal Law ⚷1133

Rule of necessity was inapplicable to void recusals of eleven circuit judges so that they could decide whether to permit rehearing en banc; en banc court could consist of three judges of circuit in regular active service; and there were three judges in regular active service, who had not recused themselves. 28 U.S.C.A. §§ 46(c),

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United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 33

REPORTED AT
827 F. 2d 1019

291(a), 294, 294(c); U.S.Ct. of App. 5th Cir. Rule 35.6, 28 U.S.C.A.

5. Constitutional Law ⇐249(9), 316

Requiring affirmative vote of majority of circuit judges in regular active service as prerequisite to rehearing en banc, even though most judges had recused themselves, did not violate equal protection or due process. U.S.Ct. of App. 5th Cir.Rule 35.6, 28 U.S.C.A.; U.S.C.A. Const.Amends. 5, 14.

6. Criminal Law ⇐1133

Court of Appeals' panel opinion affirming perjury conviction of federal district judge was not in direct conflict with any United States Supreme Court or Fifth Circuit precedent, did not invoke precedent-setting error of exceptional public importance, and did not justify grant of rehearing en banc; judge's position did not alone suffice to make case appropriate for en banc consideration. U.S.Ct. of App. 5th Cir.Rule 35, 28 U.S.C.A.

Appeal from the United States District Court for the Southern District of Mississippi.

ON PETITION FOR REHEARING and SUGGESTION FOR REHEARING EN BANC

(Opinion April 30, 1987, 5 Cir., 1987, 816 F.2d 1022)

Before VAN GRAAFEILAND*, GARWOOD and JONES, Circuit Judges.

PER CURIAM:

The petition for rehearing is DENIED, and no member of this panel nor judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Federal Rules of Appellate Procedure and Local Rule 35), the suggestion for rehearing en banc is DENIED.

* * *

This opinion is entered by the panel in response to appellant's "Memorandum Concerning En Banc Procedures" filed herein in connection with, but separate from and subsequent to, appellant's suggestion for rehearing en banc. Appellant's referenced memorandum addresses itself to the circumstance that eleven of the fourteen judges in regular active service on this Court have recused themselves from consideration of appellant's suggestion for rehearing en banc.[1] Appellant's memorandum makes several suggestions in this regard, summarized as follows:

1. That this Court modify its Rule 35.6, which provides that a case cannot be heard or reheard en banc unless a majority of all judges in regular active service on this Court—including any who may be recused in the particular case—vote that the case be heard or reheard en banc. Appellant urges in this connection that, contrary to the explicit provisions of the first paragraph of our Rule 35.6, rehearing en banc should be granted if a majority of the *non* recused judges in regular active service on the Court vote in favor of rehearing en banc.

---

* Circuit Judge of the Second Circuit, sitting by designation.

[1] The recused judges are Chief Judge Clark and Judges Rubin, Reavley, Politz, Randall, Johnson, Williams, Jolly, Higginbotham, Davis, and Hill. Chief Judge Clark has recused himself both administratively and judicially.

2. In addition, appellant's memorandum also proposes that in any event the number of judges considering appellant's suggestion for rehearing en banc be enlarged "preferably [to] at least seven judges" by one of the following alternatives: (a) appellant's waiver of all the recusals [2]; (b) designation by the Chief Judge of this Court under 28 U.S.C. § 294(c) of senior judges of this Court to participate in reviewing the en banc suggestion: (c) presentation by the Chief Judge of this Court to the Chief Justice of the United States of a certificate of necessity under 28 U.S.C. § 291(a) requesting the assignment of judges from other courts to review the en banc suggestion.[3]

3. That if the foregoing steps are not taken "the Rule of Necessity renders void all of the recusals on the en banc suggestion." [4]

None of the procedures suggested by appellant has been adopted. We further explain as follows.

[1] With respect to our Rule 35.6, it is binding, and was adopted and has continued in force with full knowledge of its implications. *See Hall v. Federal Energy Regulatory Commission*, 700 F.2d 218 (5th Cir.1983), *cert. denied sub nom. Arkla, Inc. v. Hall*, 464 U.S. 822, 104 S.Ct. 88, 78 L.Ed.2d 96 (1984). While we recognize that there is a split in the practice of the Circuits in this regard, it appears that the majority follows the same practice that this Court follows. *See Lewis v. University of Pittsburgh*, 725 F.2d 910, 928–30 (3d Cir.) (statement sur petition for rehearing of Adams, J.), *cert. denied*, 469 U.S. 892, 105 S.Ct. 266, 83 L.Ed.2d 202 (1984); *United States v. Claiborne*, 765 F.2d 784 (9th Cir. 1985), 781 F.2d 1325, 1327, 1334 (9th Cir. 1985, 1986) (dissenting opinions on denial of rehearing en banc), *cert. denied*, — U.S. ——, 106 S.Ct. 1636, 90 L.Ed.2d 182 (1986); *United States v. Claiborne*, 790 F.2d 1355, 1356 (9th Cir.1986); *In re Ahlers*, 794 F.2d 388, 414–16 (8th Cir.1986), *cert. granted sub nom. Northwest Bank Worthington v.*

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[2] Appellant's memorandum states he "is willing to waive all such disqualifications, and invites the government to do the same." The Government, in its response to this portion of appellant's memorandum, states in relevant part as follows:

> "The Government did not seek these recusals and we do not waive them at this time. The Government naturally assumes that each judge who recused himself did so with good cause and with full understanding of the effect of the recusal on the en banc process. It does not believe it appropriate to urge recused judges to reconsider decisions that doubtless were not lightly made. Should the Court or individual judges be inclined to reconsider the recusal decisions, the Government would review each judge's disclosure made pursuant to 28 U.S.C. § 445(e) prior to deciding whether or not it believes waiver to be appropriate."

None of the recused judges of this Court has withdrawn his or her recusal. Consequently, we do not further consider such suggestion.

We further observe that the Government, in its referenced response, opposes each of the other suggestions made in appellant's memorandum.

[3] Since Chief Judge Clark has recused himself in this matter administratively as well as judicially, Judge Gee, who is not recused herein and who is the next senior judge of the Court in regular active service, performs the duties of chief judge in this respect. 28 U.S.C. § 45(d). In that capacity, Judge Gee has declined to make the requested designation under section 294(c) and has declined to make the requested certificate under section 291(a). Judge Gee further advises of his concurrence in this opinion.

[4] However, as previously observed, none of the recusals has been withdrawn, and none of the recused judges has participated.

Ahlers, — U.S. —, 107 S.Ct. 3227, 97 L.Ed.2d 733 (1987) (grant of *certiorari* "limited to Question 1 presented by the petition"; we understand that this question in no way relates to en banc procedures). Further, our rule plainly seems to be sustained by *Shenker v. Baltimore & Ohio R.R. Co.*, 374 U.S. 1, 83 S.Ct. 1667, 1670, 10 L.Ed.2d 709 (1963). Moreover, even if appellant's position were to be adopted, so that rehearing en banc could be granted by the affirmative vote of a majority of nonrecused judges in regular active service, this would avail appellant nothing for no en banc poll has been requested, and even if there were a poll none of the nonrecused judges of this Court in regular active service would in any event vote to grant rehearing en banc in this case.

[2] With respect to the suggestions for designation of senior Circuit judges to participate in reviewing the en banc suggestion pursuant to section 294(c), or for a certificate of necessity under section 291(a) to the Chief Justice of the United States for the assignment of judges from other courts to review the en banc suggestion, we observe that under the wording of 28 U.S.C. § 46(c) and the Supreme Court's holding in *Moody v. Albemarle Paper Co.*, 417 U.S. 622, 94 S.Ct. 2513, 41 L.Ed.2d 358 (1974), only judges of the Circuit who are in regular active service may make the determination to rehear a case en banc. While *Moody* did not expressly refer to either section 291(a) or section 294(c), nevertheless the Supreme Court was doubtless aware of those sections, but made no suggestion that they might be exceptions to the clear provisions of section 46(c). Further, in *United States v. American-Foreign S.S. Corp.*, 363 U.S. 685, 80 S.Ct. 1336, 4 L.Ed.2d 1491 (1960), the Court, in its holding that senior judges could not participate in the decision of an en banc court, made specific reference to section 294, plainly indicating that it did not regard that section as being applicable to en banc proceedings. *Id.* 80 S.Ct. at 1338. Section 46(c) was amended following the decision in *American-Foreign S.S. Corp.*, and now authorizes a senior judge of the Circuit to participate as a member of an en banc court reviewing the decision of a panel of which such judge was a member, such participation in the en banc court to be at the judge's "election and upon designation and assignment pursuant to section 294(c) of this title and the rules of the circuit." However, no senior judge of this Circuit participated in the panel decision in this case. Moreover, the above-quoted portion of section 46(c) indicates that Congress considered the potential applicability of section 294(c) to the service of senior judges in connection with en banc processes, and limited section 294(c)'s applicability in that respect to decisions of the en banc court reviewing panel decisions in which the senior judge of the Circuit participated. In sum, section 46(c), which specifically speaks to the question, must control over the general provisions of sections 294(c) and 291(a).

[3, 4] We also observe that since an en banc court consisting of only three judges of the Circuit in regular active service has been held permissible, *United States v. Martorano*, 620 F.2d 912 (1st Cir.), *cert. denied*, 449 U.S. 952, 101 S.Ct. 356, 66 L.Ed.2d 216 (1980), and since there are three nonrecused judges in regular active service on this Court, there is no occasion for "a certificate of necessity" under section 291(a). The same conclusion likewise follows from the fact that none of the nonrecused judges in regular active service on this Court deems this case appropriate for en banc consideration, irrespective of the constraints of Local Rule 35.6. And this same reasoning also leads to the conclusion that the "Rule of Necessity" is inapplicable.

[5] Appellant's memorandum takes the position that if the procedures therein suggested are not followed, appellant will be denied equal protection of the laws and due process of the law. We disagree. In *Moody*, the Supreme Court reaffirmed the holding in the *Western Pacific Railroad* case, 345 U.S. 247, 73 S.Ct. 656, 97 L.Ed. 986 (1953), which it characterized as construing section 46(c) to be "a grant of power to the courts of appeals to order hearings or rehearings in banc, not the creation of a right in litigants to compel such hearings or rehearings or even to compel the court to vote on the question of hearing or rehearing." *Moody*, 94 S.Ct. at 2515. *See also Shenker*, 83 S.Ct. at 1670. Indeed, the *Western Pacific Railroad* case recognizes that the full court "may choose to abide by the decision of the division by entrusting the initiation of a hearing or rehearing *en banc* to the three judges" of the panel. 73 S.Ct. at 662 (emphasis in original). That opinion likewise states: "We hold that litigants are given no *statutory* right to compel each member of the court to give formal consideration to an application for a rehearing *en banc*. We hold that the statute does not compel the court to adopt any particular procedure governing the exercise of the power ...." *Id.* at 666 (emphasis in original). The Court in the *Western Pacific Railroad* case then went on to observe that "whatever the procedure which is adopted, it should not prevent a litigant from suggesting to those judges who, under the procedure established by the court, have the responsibility of initiating a rehearing *en banc*, that his case is an appropriate one for the exercise of the power." *Id.* (emphasis in original). Our procedure in Rule 35.6 comports with these standards. And, even if that procedure were as appellant claims it should be, it would not avail appellant because none of the nonrecused judges in regular active service deems the case appropriate for rehearing en banc in any event.

We observe in this connection that none of the judges of the panel deciding this case did so under the constraint of being required to follow a prior decision of this Court with which they disagreed but were nevertheless obligated to adhere to under the rule of this Court that only the en banc court can overrule prior panel decisions (unless such decisions have been invalidated by intervening decisions of the Supreme Court).

[6] Finally, under the practice of this Court en banc consideration is limited to cases involving " 'a precedent-setting error of exceptional public importance or an opinion which directly conflicts with prior Supreme Court [or] Fifth Circuit precedent.' " *Gonzalez v. Southern Pacific Transp. Co.*, 773 F.2d 637, 641 (5th Cir.1985) (quoting Internal Operating Procedures of the United States Court of Appeals for the Fifth Circuit accompanying Local Rule 35). This case does not fall within either category. The panel opinion is not in direct conflict with any prior Supreme Court or Fifth Circuit precedent. Although appellant characterizes his contentions otherwise, we believe that in substance they actually amount only to a claim that the panel has made a " 'misapplication of correct precedent to the facts of the case.' " *Gonzalez*,

773 F.2d at 641.[5] Similarly, the panel opinion does not involve "a precedent-setting error of exceptional public importance." As indicated, even if the panel erred (and it continues unanimously in the view that it did not), the error would at most amount to one of misapplication of precedent to the facts at hand, rather than establishing a new precedent of exceptional public importance. We recognize that the decision in this case, as opposed to the rules of law applied in the panel opinion, is of public importance because of the position of appellant, but we do not consider that appellant's position alone suffices to make the case appropriate for en banc consideration. *Cf. United States v. Claiborne*, 765 F.2d 784 (9th Cir.1985), 781 F.2d 1325, 1327, 1334 (9th Cir.1985, 1986) (dissenting opinions on denial of rehearing en banc), *cert. denied*, — U.S. ——, 106 S.Ct. 1636, 90 L.Ed.2d 182 (1986); *United States v. Claiborne*, 790 F.2d 1355, 1356 (9th Cir.1986); *United States v. Isaacs*, 493 F.2d 1124, 1167–69 (7th Cir.), *cert. denied*, 417 U.S. 976, 94 S.Ct. 3184, 41 L.Ed.2d 1146 (1974). Accordingly, we do not deem the case an appropriate one for en banc consideration.

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[5] The panel continues unanimously in the view that no misapplication has been made.

Adm. Office, U.S. Courts—West Publishing Company, Saint Paul, Minn.

Supreme Court of the United States

U.S. COURT OF APPEALS
FILED
JAN 26 1988
GILBERT E. GANUCHEAU
CLERK

No. 87-650

Walter L. Nixon, Jr.,
Petitioner
v.
United States

RECEIVED
U.S. COURT OF APPEALS
FIFTH CIRCUIT
JAN 26 1988
CIRCUIT EXECUTIVE

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 34

ON PETITION FOR WRIT OF CERTIORARI to the United States Court of Appeals for the Fifth Circuit, No. 86-4248.

ON CONSIDERATION of the petition for a writ of certiorari herein to the United States Court of Appeals for the Fifth Circuit.

IT IS ORDERED by this Court that the said petition be, and the same is hereby, denied.

January 19, 1988

A true copy JOSEPH F. SPANIOL, JR.
Test:
Clerk of the Supreme Court of the United States
By ____________________
Deputy

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 35

MISSISSIPPI STATE BAR

v.

Walter L. NIXON, Jr.

No. 231.

Supreme Court of Mississippi.

Sept. 24, 1986.

Action was brought by State Bar to suspend attorney from practice of law, following his conviction of perjury in federal court. The Supreme Court, Robertson, J., held that attorney's license to practice law was suspended.

License to practice suspended.

1. Attorney and Client ⇐36(1), 49

State Bar rules of discipline have as their primary object stewardship of license to practice law; all holders of licenses to practice law are subject to exclusive and inherent jurisdiction of Supreme Court, as well as proscriptions on conduct and penalties and procedures attendant on rule violations.

2. Attorney and Client ⇐39

Commission of perjury before grand jury or court under federal law is felony within meaning and contemplation of State Bar rules of discipline. 18 U.S.C.A. § 1623; State Bar Discipline Rule 6(a).

3. States ⇐18.67

Supreme Court's authority regarding license to practice law is not preempted by Federal Constitution, notwithstanding that licensed attorney may also be federal judge.

4. Attorney and Client ⇐34

Persons licensed to practice law are subject to bar discipline with respect to those licenses, notwithstanding that such individuals may hold judicial office; declining to follow *In re Proposed Disciplinary Action*, 103 So.2d 632 (Fla.); *In re Investigation of Circuit Judge*, 93 So.2d 601 (Fla.).

Attorney who is convicted of felony in federal court is not entitled to complain tribunal in license suspension proceeding. State Bar Discipline Rule 6(a).

6. Attorney and Client ⇐47

Attorney convicted of felony in federal court is not entitled to stay in state license suspension proceedings pending final disposition of federal case. State Bar Discipline Rule 6(a).

Michael B. Martz, Jackson, for appellant.

William F. Goodman, Jr., Jackson, for appellee.

Before HAWKINS, P.J., and PRATHER and ROBERTSON, JJ.

ROBERTSON, Justice, for the Court:

Walter L. Nixon, Jr. of Biloxi, Mississippi, by virtue of the authority of the State of Mississippi, was licensed to practice law on March 11, 1952, a license he has held through and including this day. This license is the subject of the present bar disciplinary proceedings.

On July 26, 1968, Nixon formally assumed the office of United States District Judge, serving the Southern District of Mississippi. *See* 28 U.S.C. § 104(b). On September 24, 1982, he was elevated to the office of Chief Judge of the United States District Court for the Southern District of Mississippi, an office he now holds.

On February 9, 1986, Judge Nixon was convicted in the United States District Court of the Southern District of Mississippi of two counts of perjury in violation of Section 1623, Title 18, United States Code. Upon the jury's verdict, the District Court on March 31, 1986, entered a final judgment of conviction and imposed sentence. The matter is presently pending before the United States Court of Appeals for the Fifth Circuit upon Nixon's appeal.

On April 18, 1986, the Mississippi State Bar filed its formal complaint urging that by reason of the aforesaid conviction, Judge Nixon be stripped of his license to practice law in the State of Mississippi. In due course Judge Nixon answered the complaint and has filed motions to dismiss asserting, among other reasons, want of jurisdiction, and, in the alternative, for an indefinite suspension of these proceedings pending appeal. These matters are here this day for our consideration and decision.

[1] The Rules of Discipline for the Mississippi State Bar heretofore adopted by this Court, effective January 1, 1984, have as their primary object stewardship of the license to practice law in this state. All holders of such licenses are by virtue thereof subject to the exclusive and inherent jurisdiction of this Court, *see Mississippi State Bar v. Phillips*, 385 So.2d 943, 944 (Miss.1980); *Matter of Mississippi State Bar*, 361 So.2d 503, 505 (Miss.1978), as well as the proscriptions on conduct and penalties and procedures attendant upon violations of same, all as set forth in the Rules of Discipline.

[2] The Bar's complaint is predicated upon Rule 6(a) of the Rules of Discipline. That rule provides, in pertinent part, as follows:

> Whenever any attorney subject to the disciplinary jurisdiction of the Court shall be convicted ... in any federal court, ... of any felony ... or of any misdemeanor involving fraud, dishonesty, misrepresentation, deceit, or willful failure to account for money or property of a client, a certified copy of the judgment of conviction shall be presented to the Court by Complaint Counsel and shall be conclusive evidence thereof. The Court shall then forthwith strike the name of the attorney and order his immediate suspension from the practice of law.

The Mississippi State Bar has presented to this Court a certified copy of the aforesaid judgment of conviction entered March 31, 1986, adjudging Walter L. Nixon, Jr., guilty of two counts of perjury in violation of 18 U.S.C. § 1623. This Judgment reflects a conviction in a federal court. Perjury under 18 U.S.C. § 1623 is a felony within the meaning and contemplation of Rule 6(a). *See Matter of Sweeney*, 95 A.D.2d 579, 467 N.Y.S.2d 585, 586 (1983); *In Re Ruggiero*, 40 A.D.2d 135, 338 N.Y.S.2d 749, 750 (1972). Even if the offense might arguably be considered a misdemeanor, it is certainly one involving "dishonesty, misrepresentation, and deceit." *See Matter of Meisnere*, 471 A.2d 269–70 (D.C.Cir.1984). The rule is satisfied. We do not look behind the District Court's judgment of conviction. Both Rule 6(a) and elementary notions of full faith and credit require acceptance here of the validity and propriety of that judgment. *See Mississippi State Bar v. Phillips*, 385 So.2d 943, 945–46 (Miss.1980).

Notwithstanding the foregoing, Judge Nixon presents a variety of reasons why we should dismiss the present proceedings or at least stay our hand until final adjudication on appeal of the federal criminal proceedings against him.

[3] First, Nixon argues that, because he is a United States District Judge, any authority this Court might otherwise have by virtue of his license to practice law is preempted by Articles I and III of the Constitution of the United States. The argument, earnestly pressed, invokes considerations fundamental to the nature of our federal republic. We do not transgress upon federal turf when we limit our action to the license the State of Mississippi has issued Nixon. What importance the federal sovereign may attach to whether Nixon holds from this state a license to practice law is a matter of federal law beyond our authority and concern, and so of the question what action, if any, federal authorities may take upon our suspension of Nixon's license to practice law.

Nixon argues that suspension of his license would be a vain and futile act. He relies upon the record which reflects that he is not practicing law at this time and that he has not practiced law since July 26, 1968, the date he assumed the office of United States District Judge. He is prohibited from practicing law by virtue of federal law. *See* 28 U.S.C. § 454; *Audett v.*

United States, 265 F.2d 837, 840 (9th Cir. 1959). The argument is wide of the mark.

By virtue of its inherent and exclusive jurisdiction, presently implemented via the Rules of Discipline for the Mississippi State Bar, this Court has authority with respect to all holding licenses to practice law in this state. *Smith v. Mississippi State Bar*, 475 So.2d 148, 149 (Miss.1985). Indeed, in the first sentence of our Rules of Discipline we have stated that

> the license to practice law in this state is a continuing proclamation by the Supreme Court that the holder is fit to be entrusted with professional and judicial matters, and to aid in the administration of justice as an attorney and as an officer of the court.

It is of no consequence that Judge Nixon in his judicial capacity may be subject to other law regarding the conduct of his office, his possible suspension from same, or discipline in connection therewith. He holds from this state a license to practice law and by virtue thereof is subject to the Rules of Discipline. Such a view is the product of faithful construction and application of the law of this state.

[4] The overwhelming majority of our sister states take a similar view that persons licensed to practice law are subject to bar discipline with respect to those licenses notwithstanding that such individuals may hold judicial office. *See Gordon v. Clinkscales*, 215 Ga. 843, 845, 114 S.E.2d 15, 18–19 (1960); *In Re Alonzo*, 284 Ala. 183, 223 So.2d 585, 592 (1969); *Matter of Riley*, 142 Ariz. 604, 691 P.2d 695, 698–99 (1984); *In Re Mills*, 539 S.W.2d 447, 449–50 (Mo.1976); *Jenkins v. Oregon State Bar*, 241 Or. 283, 405 P.2d 525, 527–28 (1965); *In Re Mattera*, 34 N.J. 259, 265–70, 168 A.2d 38, 41–44 (1961); *Louisiana State Bar Association v. Funderburk*, 284 So.2d 564, 566 (La.1973); *see also* cases cited in Annotation, *Misconduct In Capacity As Judge As Basis For Disciplinary Action Against Attorney*, 57 A.L.R.3d 1150 (1974). That Florida or any other state may take a different view, *e.g.*, *In Re Proposed Disciplinary Action*, 103 So.2d 632 (Fla.1958); *In Re Investigation of Circuit Judge*, 93 So.2d 601 (Fla.1957) suggests only that the law of that state is different from the law of Mississippi.

In the alternative, Judge Nixon objects to the somewhat summary proceedings authorized by Rule 6 and, instead, urges the formation of a complaint tribunal to hear and determine the matter. To be sure, most bar disciplinary matters are heard by a complaint tribunal in accordance with Rule 8 of the Rules of Discipline. Proceedings when one subject to the disciplinary jurisdiction of the court has been convicted of a crime such as that involved here, however, are excepted from Rule 8 and instead are governed by Rule 6. The reason for this is the rather obvious one that a complaint tribunal hears matters involving disputes regarding questions of fact. Even though the ultimate decision in such matters is for this Court, *see Levi v. Mississippi State Bar*, 436 So.2d 781, 782–83 (Miss. 1983), we regard it of immeasurable benefit that the complaint tribunal conducts a factual hearing and submits to us proposed findings of fact and a proposed judgment. *See* Rule 8(b). By way of contrast, today's proceedings are upon a factual record which is documentary in nature and where our function is merely the correct ascertainment of and application of the law to the uncontradicted facts.

[5] Nothing in *Mississippi State Bar v. A Mississippi Attorney*, 437 So.2d 1227 (Miss.1983) is to the contrary. In that case the Court ordered designation of a complaint tribunal where the Bar proceeded on the basis of an attorney's previous conviction of "constructive criminal contempt," a crime not within the ambit of the statutory precursor to Rule 6(a). Development of a factual record was there necessary and appropriate. In the case at bar no such factual inquiry need be made. The application for a complaint tribunal is denied.

[6] Finally, Judge Nixon argues, in the alternative, that these proceedings should be stayed pending final disposition of his appeal before the United States Court of

Appeals for the Fifth Circuit. Rule 6 is quite clear in providing that no such stay shall be allowed. Upon our determination that one subject to the disciplinary jurisdiction of this Court has been convicted of an offense within the meaning and contemplation of Rule 6(a), and upon the filing of a certified copy of the judgment of conviction with the Clerk of this Court, Rule 6(a) directs that we shall

> strike the name of the attorney and order his immediate suspension from the practice of law.

We note that Rule 6(b) provides that the attorney shall be immediately reinstated if the conviction should be reversed upon appeal. In any event, by virtue of the clear language of Rule 6(a), we deny the motion for stay.

In summary and in conclusion, we hold this day that all of the substantive and procedural requisites of Rule 6(a), Rules of Discipline for the Mississippi State Bar, have been met. The license issued by the State of Mississippi to Walter L. Nixon, Jr., authorizing his practice of law shall be, and the same hereby is, suspended, effective the date this opinion is released.

LICENSE TO PRACTICE LAW SUSPENDED.

HAWKINS, P.J., and DAN M. LEE, PRATHER and ANDERSON, JJ., concur.

WALKER, C.J., ROY NOBLE LEE, P.J., and SULLIVAN and GRIFFIN, JJ., not participating.

SHELL WESTERN E & P, INC., et al

v.

J.B. ROBINSON.

No. 55935.

Supreme Court of Mississippi.

Oct. 1, 1986.

Appeal from Chancery Court, Amite County; R.B. Reeves, Chancellor.

Judith Y. Robertson, New Orleans, La., for appellants.

John H. White, Jr., Bert Jones, McComb, for appellee.

Before HAWKINS, P.J., and DAN M. LEE and SULLIVAN, JJ.

AFFIRMED.

NIXON 04

JUDICIAL CONFERENCE OF THE UNITED STATES
WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

L. RALPH MECHAM
Secretary

CERTIFICATE

TO THE SPEAKER, UNITED HOUSE OF REPRESENTATIVES:

The Judicial Conference of the United States, acting pursuant to section 331 of title 28, United States Code, does hereby certify as follows:

1. On February 11, 1988, the Judicial Council of the Fifth Circuit certified to the Judicial Conference, as provided by 28 U.S.C. § 372(c)(7)(B), that United States District Judge Walter L. Nixon, Jr., of the Southern District of Mississippi has engaged in conduct which might constitute one or more grounds for impeachment under Article I of the United States Constitution.

2. The Judicial Conference has excercised its authority under 28 U.S.C. § 372(c)(8) to consider the certificate of the Judicial Council of the Fifth Circuit. In so doing, the Judicial Conference had before it certified official records of judicial proceedings manifesting as follows:

> On March 31, 1986, Judge Nixon was convicted of two counts of violating section 1623 of title 18, United States Code.
>
> On January 19, 1988, Judge Nixon's conviction became final upon denial of a petition for writ of certiorari by the Supreme Court of the United States.

3. Pursuant to Rule 1 of the Rules for Processing of Certificates from Judicial Councils that a Judicial Officer Might Have Engaged in Impeachable Conduct, the Judicial Conference considers no additional investigation by the Conference itself to be appropriate. It is apparent that the certification by the Judicial Council is premised entirely upon a judgment of conviction in a criminal case and that the judgment has become final. As provided in 28 U.S.C. § 372(c)(8), the Judicial Conference concurs in the determination of the Judicial Council that Judge Nixon has engaged in conduct which might constitute one or more grounds for impeachment under Article I of the Constitution.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 36

4. Consideration of the impeachment of Judge Nixon may be warranted.

There are attached the certificate of the Judicial Council of the Fifth Circuit to the Judicial Conference, a letter, dated February 26, 1988, to the Judicial Conference of the United States from the Acting Chief Judge of the Fifth Circuit, and certified copies of the judgment and commitment order of the United States District Court for the Southern District of Mississippi entered on March 31, 1986; the judgment of the United States Court of Appeals of the Fifth Circuit on April 30, 1987, affirming the judgment of the District Court, supported by opinions issued on April 30, 1987, affirming the judgment and on September 8, 1987, denying Judge Nixon's petition for rehearing and suggestion for rehearing en banc; and an order of the Supreme Court of the United States, dated January 19, 1988, denying the petition for writ of certiroari filed by Judge Nixon.

Executed this 15th day of March, 1988.

L. Ralph Mecham*
Secretary

---

*The Chief Justice and Judge Charles Clark were not present and did not participate in the deliberations of the Judicial Conference with respect to the subject matter of this certificate. Judge L. T. Senter, Jr., though present, did not participate.

THE JUDICIAL COUNCIL OF THE FIFTH CIRCUIT

Before GEE, REAVLEY, KING, GARWOOD, DAVIS, JONES and SMITH, Circuit Judges, and JUSTICE, MAHON, SHAW, HUDSPETH, POLOZOLA and DAVIDSON, District Judges.

IN RE: Walter L. Nixon, Jr.
United States District Judge
Southern District of Mississippi

Pursuant to Title 28, Section 372(c)(7)(B), the Judicial Council of the Fifth Circuit, based on (i) the court record in Case No. CR-H-85-00012(L) filed in the Southern District of Mississippi at Hattiesburg; (ii) the enclosed opinions of the United States of America, Appellee, versus Walter L. Nixon, Jr., Appellant; and (iii) the enclosed notice from the Supreme Court of the United States of the denial of the petition for writ of certiorari filed on October 21, 1987 in Case No. 87-650; has determined that Walter L. Nixon, Jr., a United States District Judge for the Southern District of Mississippi, has engaged in conduct which might constitute one or more grounds for impeachment under Article I of the Constitution, and so certifies its determination to the Judicial Conference of the United States.

Thomas Gibbs Gee
THOMAS GIBBS GEE
For the Council

Dated:

February 11, 1988

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*Chief Judge Clark, Circuit Judges Rubin, Politz, Johnson, Williams, Jolly, Higginbotham, and District Judges [illegible], Schwartz and Lee stood recused and did not participate in this Judicial Council action.

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Opinion of the United States Court of Appeals, Fifth Circuit, dated April 30, 1987, in Case No. 86-4248, Affirming the Judgment of the District Court

Opinion of the United States Court of Appeals, Fifth Circuit, dated September 8, 1987, in Case No. 86-4248, Denying Appellant's Petition for Rehearing and Suggestion for Rehearing

Denial of the Petition for Writ of Certiorari by the Supreme Court of the United States on January 19, 1988 in Case No. 87-650

- - - - -

underinsured, the motion should otherwise be denied.

Accordingly, it is ordered that Allstate's motion is granted in part and denied in part as provided hereinabove.

ORDERED.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 37

Walter L. NIXON, Jr., Petitioner,

v.

UNITED STATES of America,
Respondent.

No. H88-0052(G).

United States District Court,
S.D. Mississippi,
Hattiesburg Division.

Dec. 19, 1988.

Federal judge moved to vacate conviction for perjury before grand jury. The District Court, Nangle, J., Sitting by Designation, held that: (1) prosecutor did not violate *Brady* principles and did not violate prohibition against knowing use of false testimony; (2) Jencks Act did not require prosecution to produce alleged witness statements; and (3) Government did not trap judge into committing perjury.

Motion denied.

1. Constitutional Law ⇐268(9)

To prevail on due process claim that prosecution obtained conviction through knowing use of false testimony, petitioner must prove that testimony was false and material and that prosecution knew or reasonably should have known of falsity of testimony. U.S.C.A. Const.Amends. 5, 14.

2. Constitutional Law ⇐268(5)

Prosecutor's explanation of pardon procedure to witness did not constitute a promise or inducement to help witness obtain pardon after petitioner's trial and, therefore, did not constitute *Brady* material for purposes of due process claim; prosecutor merely explained that as part of pardon procedure he would normally be asked to describe witness' cooperation with United States. U.S.C.A. Const.Amends. 5, 14.

3. Constitutional Law ⇐268(5)

Prosecutor's statement to witness' attorney that prosecutor would do what he could to ensure that witness was not punished for cooperation with United States was not promise or inducement to witness or his father, another witness, was not material to petitioner's defense in perjury prosecution, and, therefore, did not constitute *Brady* material for purposes of due process claim; prosecutor did not intend statement to be promise or inducement; statement was not so construed by attorney; and by time of his trial, petitioner knew that witness had been indicted and sentenced. U.S.C.A. Const.Amends. 5, 14.

4. Constitutional Law ⇐268(5)

Prosecutor's statement to witness' attorney that prosecutor would not make sentencing recommendation for witness did not constitute promise and was not *Brady* material for purposes of due process claim, even though prosecutor and attorney described statement as promise; nothing indicated that witness or his father, another witness, knew about statement; and statement was not made to induce any action by witness. U.S.C.A. Const.Amends. 5, 14.

5. Constitutional Law ⇐268(5)

Impeachment of witness by prosecutor's alleged promise that he would not make sentencing recommendation for witness was not material to petitioner's defense on perjury charges, and, thus, Government's failure to disclose statement did not violate due process, where witness' testimony did not pertain to counts on which petitioner was convicted. U.S.C.A. Const.Amends. 5, 14.

6. Constitutional Law ⇐268(5)

Prosecutor's statement that Government would dismiss charge alleging payment of illegal gratuity only if Government concluded that witness had not committed crime was not promise or inducement to witness and did not constitute *Brady* material for purposes of due process claim, even if witness misinterpreted statement as inducement. U.S.C.A. Const.Amends. 5, 14.

7. Constitutional Law ⇐268(5)

Informant's statement in FBI internal teletype that witness wanted immunity in exchange for cooperation was not promise or inducement to witness, was merely request by witness during plea negotiations, and did not constitute *Brady* material for purposes of due process claim; Government was under no obligation to disclose teletype merely for reason that it indicated that witness wanted immunity in exchange for cooperation. U.S.C.A. Const.Amends. 5, 14.

8. Constitutional Law ⇐268(5)

Unreliable statements in FBI internal teletype did not constitute *Brady* material for purposes of due process claim; agent drafting teletype relied on FBI form 302 and made erroneous statements about what witness stated at his proffer. U.S.C.A. Const.Amends. 5, 14.

9. Constitutional Law ⇐268(5)

Internal prosecution memorandum that discussed factors for and against prosecuting witness in federal court did not contain evidence favorable to petitioner, was not material to petitioner's trial, and did not constitute *Brady* material for purposes of due process claim; memorandum was not evidence that prosecution of witness was part of agreement between Government and another witness; and witness was indicted and sentenced in federal court before petitioner's trial. U.S.C.A. Const.Amends. 5, 14.

10. Criminal Law ⇐627.5(6)

Government's internal prosecution memorandum that discussed factors for and against prosecuting witness in federal court was work-product of government attorneys and was exempt from discovery at trial. Fed.Rules Cr.Proc.Rule 16(a)(2), 18 U.S.C.A.

11. Constitutional Law ⇐268(9)

Businessman's allegedly false testimony about date that his attorney approached him about federal judge's request to investigate possibility of judge making oil investment with businessman was not material to judge's alleged perjury before grand jury by denying that county prosecutor discussed with judge drug prosecution against businessman's son and that judge never had anything to do with case against businessman's son, and, thus, prosecutor's use of false testimony did not violate due process; date of approach did not establish that judge's investments through businessman were made before drug bust and did not establish contents of disputed conversations. U.S.C.A. Const.Amends. 5, 14.

12. Criminal Law ⇐940, 945(1)

Alleged, undisclosed promises and inducements to witnesses against petitioner, undisclosed government documents, and witness' attempted recantation were either not material to perjury convictions or would not have led to acquittal during new trial, and therefore, would not entitle petitioner to new trial on basis of newly discovered evidence.

13. Criminal Law ⇐627.7(3)

Written documents prepared by government agents and witness interview notes taken by government agents, including government attorneys' notes taken during pretrial witness preparation session, are Jencks Act materials, if witness has signed or otherwise adopted or approved documents or if documents are contemporaneously made, substantially verbatim recital of witnesses' oral statements. 18 U.S.C.A. § 3500.

14. Criminal Law ⇐627.7(3)

Government interviewer is not required to conduct witness interview or to take interview notes in fashion that creates Jencks Act materials. 18 U.S.C.A. § 3500.

15. Criminal Law ⇐627.7(3)

Witness' general approval of substance of interview notes is not sufficient to constitute adoption or approval required by Jencks Act. 18 U.S.C.A. § 3500.

16. Criminal Law ⇐627.7(3)

Mere verbal exchange between interviewer and witness over substance of witness' testimony while interviewer relies on notes does not effect adoption or approval of notes by witness as required by Jencks Act. 18 U.S.C.A. § 3500.

17. Criminal Law ⇐627.7(3)

Interviewer reading portions of notes back to witness to ensure accuracy does not constitute adoption or approval as required by Jencks Act. 18 U.S.C.A. § 3500.

18. Criminal Law ⇐627.7(3)

Prosecutor's two-page handwritten outline of witness' possible testimony was not shown to be Jencks Act statement; nothing established that witness read, signed, or adopted it in some fashion before trial, that outline was verbatim record of oral statement of witness, or that it was in possession of Government at time of or after pretrial motion for disclosure. 18 U.S.C.A. § 3500.

19. Criminal Law ⇐627.7(3)

Mere fact that prosecutors reviewed contents of four-page handwritten chronology of key events by witness' assistant did not establish Government possession of chronology, and, thus, chronology was not Jencks Act material. 18 U.S.C.A. § 3500.

20. Criminal Law ⇐627.7(3), 700(6)

Witness assistant's notes of prosecutor's interview of witness were not shown to be in prosecutor's possession, were not shown to be derived from any document in prosecutor's possession, and were not Jencks Act materials. 18 U.S.C.A. § 3500.

21. Constitutional Law ⇐257.5

Perjury trap theory is founded upon due process prohibition against outrageous government misconduct. U.S.C.A. Const. Amends. 5, 14.

22. Constitutional Law ⇐257.5
Perjury ⇐11(7)

"Perjury trap" in violation of due process clause occurs when Government abuses grand jury process by using investigatory powers to secure indictment for perjury on matters which are not material or germane to legitimate investigation of grand jury. U.S.C.A. Const.Amends. 5, 14.

See publication Words and Phrases for other judicial constructions and definitions.

23. Constitutional Law ⇐257.5

In order to establish perjury trap in violation of due process, petitioner must establish that testimony had no tendency to support any possible action of grand jury within its investigatory role and that grand jury called petitioner to testify with purpose of eliciting perjury; petitioner must establish that prosecutor questioned petitioner before grand jury with premeditated design and sole or primary purpose to trap him into committing perjury through unfair means. U.S.C.A. Const.Amends. 5, 14.

24. Constitutional Law ⇐257.5

Prosecutor's grand jury question whether county prosecutor ever discussed drug case against businessman's son with federal judge was material to grand jury's investigation of whether drug case was influenced by judge or others after businessman conveyed mineral interest to judge, and, thus, question did not constitute "perjury trap" in violation of due process; at time of judge's testimony, grand jury did not have information that either prosecutor or businessman had discussed drug case with judge. U.S.C.A. Const. Amends. 5, 14.

25. Constitutional Law ⇐257.5

Claim that prosecutor set up perjury trap in violation of due process had no application to prosecutor's open-ended invitation to federal judge to speak to grand jury; judge then gave voluntary, narrative statement. U.S.C.A. Const.Amends. 5, 14.

26. Criminal Law ⇐997.4

Alleged, pretrial prosecutorial misconduct by bringing baseless charges against witnesses in order to induce them to provide damaging and incriminating evidence against petitioner was harmless beyond reasonable doubt, where petitioner never alleged that witnesses' evidence against petitioner was false.

27. Criminal Law ⟹36.5

Prosecutor investigating alleged acceptance of gratuity by federal judge did not commit misconduct by allowing witness to testify before grand jury about witness' belief that preacher had been able to obtain reduction in his son's sentence by paying county prosecutor to intercede with federal judge, even though prosecutor knew that judge had not handled any aspect of case against preacher's son; the witness' belief was relevant.

28. Criminal Law ⟹997.4

Any prosecutorial misconduct during grand jury proceeding in which witness testified about belief that preacher had obtained reduction in son's sentence by paying county prosecutor to intercede with federal judge was harmless beyond reasonable doubt in prosecution of judge for perjury; Government's direct examination of witness at judge's trial did not elicit any testimony about preacher; and even though redirect examination elicited witness' testimony that source of her information was preacher, jury was clearly advised that judge had not handled preacher's case.

29. Criminal Law ⟹997.4

Government's prosecution of federal judge in alleged retaliation for judge's judgment against the United States in condemnation case would constitute harmless error, where any retaliatory purpose would have no bearing upon whether judge committed perjury before grand jury.

30. Constitutional Law ⟹257.5

Theory regarding prosecutorial vindictiveness in violation of due process applies only when prosecutor acts adversely to criminal defendant in pending criminal proceeding in direct response to and to penalize or retaliate against defendant for defendant's prior exercise and invocation of constitutional or statutory rights during course of criminal proceeding. U.S.C.A. Const.Amends. 5, 14.

31. Constitutional Law ⟹257.5

Theory of prosecutorial vindictiveness in violation of due process was inapplicable in perjury prosecution of federal judge, where judge was not criminal defendant during any alleged acts of prosecutorial misconduct, where judge did not identify any constitutional or statutory right which judge exercised after indictment and to which prosecutor responded vindictively, and where judge did not identify any prosecutorial action which was vindictive response to any prior action of judge as defendant. U.S.C.A. Const.Amends. 5, 14.

32. Judges ⟹36

Federal judge's action in rendering judgment against United States in land condemnation case was constitutionally protected by Article III and First Amendment, and, thus, prosecuting judge in alleged retaliation for judgment in land condemnation case would be impermissible purpose and would support decision to overturn perjury conviction of judge. U.S.C.A. Const. Art. 3, § 1 et seq.; Amend. 1.

33. Criminal Law ⟹997.15(4)

Federal judge failed to establish that Government prosecuted him in retaliation for judge's judgment against United States in land condemnation case, and, thus, court could not overturn federal perjury conviction; Government's investigation of judge's affairs uncovered strong evidence that judge accepted illegal gratuity and committed perjury in grand jury testimony.

34. Constitutional Law ⟹250.1(3)

Federal judge failed to establish that Government singled him out for prosecution while another similarly situated person was not prosecuted, that constitutionally invidious motive prompted Government to prosecute judge, and that prosecution of judge violated equal protection. U.S.C.A. Const.Amend. 14.

35. Constitutional Law ⟹250.1(1)

Prosecutorial decision to retaliate against federal judge for exercise of constitutionally protected right under Article III and First Amendment to render judgment would be constitutionally invidious and would support finding that prosecution violated equal protection. U.S.C.A. Const. Art. 3, § 1 et seq.; Amends. 1, 14.

36. Constitutional Law ⇔257.5

Federal judge's allegations of improper investigatory techniques and motives by Government did not suggest governmental involvement in crimes charged, that is, acceptance of illegal gratuity and perjury before grand jury, did not suggest Government's orchestration and implementation of criminal activity, and did not suggest judge's passive involvement, and, thus, Government's investigatory techniques and alleged motive would not constitute outrageous government conduct in violation of due process; judge alleged that Government brought untenable charges against potential witnesses and retaliated against judge for his judgment against United States in land condemnation case. U.S.C.A. Const.Amends. 5, 14.

James M. Cole, Public Integrity Section, Crim. Div., U.S. Dept. of Justice, Washington, D.C., for respondent.

Boyce Holleman, Michael B. Holleman, Boyce Holleman, A Professional Ass'n, Gulfport, Miss., William H. Jeffress, Jr., David Overlock Stewart, Miller, Cassidy, Larroca & Lewin, Washington, D.C., for petitioner.

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MEMORANDUM

NANGLE, District Judge, Sitting by Designation.

The motion of Petitioner Walter L. Nixon, Jr., to vacate his conviction and sentence, pursuant to 28 U.S.C. § 2255, is before the Court for a decision on the merits after an evidentiary hearing.

A. *Introduction.*

1. The Grand Jury Indictment.

On August 29, 1985, a special federal grand jury for the Southern District of Mississippi in Hattiesburg returned a four-count indictment against Petitioner who was then the Chief Judge of that Court. The Hattiesburg grand jury charged Petitioner with four offenses. Count I alleged the acceptance of an illegal gratuity, in violation of 18 U.S.C. § 201(g), based upon Petitioner's receipt of certain mineral royalty investments from Wiley Fairchild, a Hattiesburg businessman. Counts II, III and IV alleged perjury before the same grand jury, in violation of 18 U.S.C. § 1623. The trial jury returned verdicts of not guilty on Counts I and II, but guilty on Counts III and IV. The late Honorable James H. Meredith, the United States District Judge who tried the case, sentenced Petitioner to concurrent terms of five years imprisonment on each of the two perjury counts. The conviction and sentence were affirmed on direct appeal. *United States v. Nixon*, 816 F.2d 1022 (5th Cir.), *reh'g denied*, 827 F.2d 1019 (5th Cir.1987), *cert. denied*, — U.S. —, 108 S.Ct. 749, 98 L.Ed.2d 762 (1988).

2. Section 2255 Grounds for Relief.

Petitioner thereafter filed the instant motion to vacate his conviction and sentence pursuant to 28 U.S.C. § 2255. He raises five grounds for post-conviction relief:

(1) the government's failure to disclose favorable materials before trial;

(2) the government's knowing use of false testimony;

(3) the government's failure to disclose statements of witnesses as required by the Jencks Act;

(4) the government's creation of a perjury trap during the grand jury proceedings; and

(5) the government's prosecutorial abuse and misconduct.

On August 5, 1988, Petitioner moved to amend his second ground for relief to add an additional specification of the government's knowing use of false testimony. On August 18, 1988, the Court denied this motion to amend. Thereafter, Petitioner moved for reconsideration, which the Court took under advisement. On August 29 and 30, 1988, an evidentiary hearing was held in

Jackson, Mississippi, on the first three grounds.[1]

3. Section 2255 Hearing Evidence.

At the § 2255 evidentiary hearing, John Baltar, Wiley Fairchild, Barry Hess, and Michael Fawer testified for Petitioner. Jan Little, Reid Weingarten, H. Marshall Jarrett, Weldon Kennedy, Kenneth White-Spunner, Jr., and Donald Lawless testified for the United States. The parties submitted extensive pre- and post-hearing briefs and many documents including grand jury transcripts, the trial transcript, the post-trial motion hearing transcript and the House Sub-Committee impeachment hearing transcript.

4. Section 2255 Legal Standards.

The Court has examined Petitioner's five grounds for post-conviction relief in the context of the narrow scope of collateral attack permitted by § 2255. A § 2255 proceeding is not a retrial of the case. Petitioner is entitled to post-conviction relief pursuant to § 2255 only if he establishes a jurisdictional or constitutional error, or an error of law which is so fundamental that it inherently results in a complete miscarriage of justice or in a proceeding inconsistent with the rudimentary demands of fair procedure. *United States v. Addonizio,* 442 U.S. 178, 185–186, 99 S.Ct. 2235, 2240–41, 60 L.Ed.2d 805 (1979); *United States v. Timmreck,* 441 U.S. 780, 784, 99 S.Ct. 2085, 2087, 60 L.Ed.2d 634 (1979); *Hill v. United States,* 368 U.S. 424, 428, 82 S.Ct. 468, 471, 7 L.Ed.2d 417 (1962). On his claims for relief, Petitioner has the burden of sustaining his factual contentions by a preponderance of the evidence. *United States v. Bondurant,* 689 F.2d 1246, 1251 (5th Cir. 1982); *Wright v. United States,* 624 F.2d 557, 558 (5th Cir.1980).

B. *Factual Background.*

At the outset, it should be noted that this is not a typical § 2255 proceeding. Petitioner has made allegations which relate to the government's motives in investigating him, impaneling a special grand jury, propounding certain questions to him before the grand jury and eventually prosecuting him.

The evidence relating to the two perjury counts in issue is quite limited. However, in order to fully consider Petitioner's allegations, this Court must examine a complex factual background beyond the actual scope of the trial. Three separate sets of events—the Petit Bois Island condemnation proceedings, the Hattiesburg Airport drug bust followed by the Drew Fairchild criminal prosecution, and Petitioner's mineral royalty investments with Wiley Fairchild—combine to form this background. The following is an organized chronology of these events.

1) In 1979, Petitioner contacted Hattiesburg attorney Carroll Ingram and asked Ingram to investigate the possibility of Petitioner making an oil investment with Ingram's client, Wiley Fairchild, a Hattiesburg businessman and the president of Fairchild Construction Co.

2) On August 4, 1980, federal and local Forrest County, Mississippi, law enforcement agents seized an airplane carrying marijuana at the Hattiesburg Municipal Airport.[2] Drew Fairchild, the son of Wiley Fairchild, was one of the managers of the airport and was an active participant in the marijuana smuggling conspiracy. On August 19, 1980, a federal grand jury returned indictments against three of the marijuana smugglers, but not against Drew Fairchild. Drew and his attorney, Bill Porter, approached Forrest County

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[1] No evidentiary hearing was held on Petitioner's fourth and fifth grounds for relief, because the Court concluded that Petitioner's initial showing in support of those two grounds was insufficient to warrant § 2255 post-conviction relief.

[2] Hattiesburg is in Forrest County, Mississippi.

District Attorney Paul H. "Bud" Holmes to discuss Drew's situation. Holmes referred Drew and Porter to George Phillips, the U.S. Attorney prosecuting the three other marijuana smugglers. On November 19, 1980, Drew and Phillips entered into a written "Memorandum of Understanding" wherein they agreed that Drew would cooperate with the federal government in its prosecution of the other marijuana smugglers, would plead guilty to felony charges, would pay a $15,000 fine, and would be sentenced to five years probation.

3) In early 1981, Wiley Fairchild's extensive investment portfolio included three certain mineral royalty interests. On February 25, 1981, at Wiley's direction, Robert L. "Skip" Jarvis, his employee at Fairchild Construction Co., prepared a set of royalty conveyance documents for these three mineral royalty interests. In early March 1981, again at Wiley's direction, Jarvis prepared a second set of documents conveying the same three mineral royalty interests to Petitioner. Wiley executed the second set of royalty conveyance documents in early March 1981. However, the documents were backdated to reflect an execution date of February 25, 1980. Upon receipt of the executed documents, Ingram prepared three promissory notes totaling $9,500, reflecting a debt from Petitioner to Wiley Fairchild. Petitioner thereafter executed the promissory notes in early March 1981, although they also were backdated to reflect an execution date of February 25, 1980.

4) In March 1981, attorney Porter sued Drew Fairchild to collect a $10,000 legal fee for representing Drew in the plea negotiations with federal prosecutor Phillips. In July 1981, Wiley Fairchild paid Porter $2,669.19 of the fee. Porter was dissatisfied with this partial payment and complained to Holmes about his inability to collect his full legal fee from Drew. In order to determine what he could do to help Porter collect his full legal fee from Drew, Holmes called U.S. Attorney Phillips to discuss the status of the Drew Fairchild criminal case. By this time, Phillips had concluded that Drew had breached their plea agreement by not cooperating with the federal law enforcement officials. Thus, Phillips had already decided to prosecute Drew federally for his role in the marijuana smuggling conspiracy. Holmes offered to take over the prosecution of Drew and to indict Drew locally in Forrest County Circuit Court. Phillips agreed. On August 26, 1981, the Forrest County grand jury returned an indictment against Drew Fairchild and Robert Watkins, the pilot of the marijuana smuggling airplane. On September 3, 1981, Drew was arraigned in Forrest County Circuit Court, represented by Porter. Porter demanded the remainder of his fee. On September 3, 1981, Wiley Fairchild paid Porter $7,500.

5) In 1980, the United States government instituted condemnation proceedings in the United States District Court for the Southern District of Mississippi to add Petit Bois Island to the Gulf Island National Seashore. From August 23, through early September 1981, Petitioner presided over an eight-day trial to determine the value of Petit Bois Island. The United States valued Petit Bois Island at $330,000. John Stocks and Eugene Lewis of Tallahassee, Florida, the principal owners of Petit Bois Island and representing all the landowners, valued Petit Bois Island at $6.6 million.

6) On January 12, 1982, Drew Fairchild pled guilty in Forrest County Circuit Court to the marijuana smuggling charge. In a plea agreement with Holmes, Drew agreed to cooperate with Forrest County law enforcement officials in the prosecution of Watkins. Holmes agreed that Drew would receive a sentence of five years probation and a $5,000 fine. Drew Fairchild's sentencing was scheduled for March 19, 1982.

but was continued to accommodate Drew's medical condition.

7) On March 29, 1982, Petitioner rendered a $6.1 million judgment in favor of the landowners and against the United States in the Petit Bois Island condemnation proceedings. The United States filed a motion for a new trial based upon newly discovered evidence, which was denied by Petitioner.

8) In May 1982, Robert Watkins became a fugitive. As a result, and because Holmes wanted to ensure Drew Fairchild's cooperation in Watkins' prosecution, Drew's criminal sentencing was continued several times during the summer of 1982. In October 1982, Watkins was apprehended in Florida and Mississippi began extradition proceedings. On December 23, 1982, on Holmes' motion, Forrest County Circuit Court Judge Jack B. Weldy ordered Drew Fairchild's criminal case "passed to the files," that is, placed in inactive status but not dismissed. This step was taken to toll a Mississippi sentencing deadline so that Drew's sentencing could be delayed until after Watkins' trial. The facts suggest that passing Drew's case may also have been done to impress Wiley Fairchild. In January 1983, Judge Richard W. McKenzie replaced Judge Weldy on the Drew Fairchild criminal case. Also in January 1983, Watkins was extradited to Mississippi. As a result, on January 26, 1983, one month after it was "passed to the files," Drew's criminal case was reinstated to the active docket. However, there was no activity on Drew's case during the remainder of 1983.

9) In March 1983, the FBI in Tallahassee, Florida, received information indicating that Stocks and Lewis had fraudulently inflated the value of Petit Bois Island during the condemnation proceedings before Petitioner. This information did not implicate Petitioner in any misconduct in the condemnation proceedings. A federal grand jury in the Northern District of Florida began investigating the charges of fraud by Stocks and Lewis. The United States filed a motion for post-judgment relief in the Petit Bois Island condemnation proceedings. On July 21, 1983, Petitioner denied the United States' motion because it was not timely filed. The United States then moved for an *in camera* hearing in which it would demonstrate that Stocks' and Lewis' evidence at the condemnation trial had involved a fraud on the court. The United States refused to disclose this evidence to Stocks and Lewis. After two hearings in September 1983, Petitioner denied the United States' motion and refused to review the evidence *in camera*.

10) On November 3, 10, and 17, 1983, Robert Jarvis, who had left Wiley Fairchild's employ in May 1983, placed anonymous telephone calls to the FBI office in Pascagoula, Mississippi. In these telephone calls, Jarvis alleged that Wiley Fairchild had conveyed certain mineral royalty interests to Petitioner in order to obtain Petitioner's aid in the handling of Drew's criminal case. Jarvis told the FBI that the royalty conveyance documents had been executed after the Hattiesburg Airport drug bust, but had been backdated to reflect execution dates prior to the drug bust. Jarvis alleged that this backdating had occurred so that it would appear that Petitioner had not obtained the mineral royalty interests in connection with Drew's criminal problems. Jarvis also alleged that the Petitioner's promissory notes were not made as part of the transaction, but rather were made after the fact.

11) In early November 1983, attorney Porter was killed in an airplane crash. One morning in late November or early December 1983, at approximately 6:00 a.m., Holmes telephoned Judge McKenzie. Within an hour, Holmes picked up McKenzie and drove him to Wiley Fairchild's office. There, Holmes told Judge McKenzie and Wiley Fairchild that his term as Forrest County District Attorney was due to

expire in January 1984, that he was going to be replaced by Glen L. White, and that he wanted to clear up some cases before he left office. Holmes and Wiley generally discussed Drew's plea agreement and Holmes asked Wiley whether Drew wanted to go through with his sentencing. Wiley told Holmes to put Drew's criminal case on a back burner and to let it simmer. In January 1984, Glen L. White replaced Holmes as Forrest County District Attorney. There was no activity in Drew's criminal case during 1984, though the case was active and had not been dismissed.

12) The federal fraud investigation of Stocks and Lewis uncovered information indicating that Petitioner, Stocks, and Lewis had been at the same social gathering some time prior to the Petit Bois Island condemnation trial. In January 1984, the U.S. Attorneys for the Northern District of Florida and the Southern District of Mississippi determined that Petitioner could be a witness in the fraud investigation and that, if a fraud had been committed on the court, the fraud offense would have occurred in Mississippi where the court was located. In January 1984, the U.S. Attorney for the Northern District of Florida discussed the handling of the Petit Bois Island fraud investigation with his superiors in the Criminal Division of the Justice Department in Washington, D.C. The Public Integrity Section of the Criminal Division took over the Petit Bois Island fraud investigation in February, 1984, and transferred it to the Southern District of Mississippi.

13) In March 1984, Jarvis came forward and identified himself to the FBI as the anonymous telephone informant from November 1983. Jarvis agreed to cooperate with the United States and, on April 18, 1984, Jarvis consensually recorded a meeting with Wiley Fairchild.

14) On April 19, 1984, attorney Reid Weingarten of the Public Integrity Section interviewed Petitioner in his chambers in Biloxi, Mississippi. In response to one of Weingarten's questions, Petitioner stated that Holmes had not ever discussed the Drew Fairchild criminal case with him. (April Interview Transcript [hereinafter "Int. Tr."] at p. 28).

15) In May 1984, the United States requested the impaneling of a special federal grand jury to investigate whether there was any impropriety in Petitioner obtaining the mineral royalty interests from Wiley Fairchild and whether there was any connection between those investments and the handling of the Drew Fairchild criminal case. A special federal grand jury was impaneled in Hattiesburg on July 18, 1984.

16) Petitioner voluntarily appeared and testified before the special federal grand jury in Hattiesburg on July 18, 1984. Midway through the grand jury appearance, Weingarten asked:

> Did [Holmes] ever discuss the Drew Fairchild case with you?

(Nixon Gr.J. Tr. at p. 47, l. 25, through p. 48, l. 1). Petitioner answered:

> No, not to the best of my recollection. I think I would recall if he had.

(Nixon–Gr.J. Tr. at p. 48, ll. 2–3). This testimony was the basis for Count III of the indictment against Petitioner. Toward the end of Petitioner's grand jury appearance, Weingarten stated:

> All right. Judge, do you have anything you want to add?

(Nixon Gr.J. Tr. at p. 75, ll. 14–15). Petitioner proceeded to make a lengthy narrative statement. (Nixon Gr.J. Tr. at p. 75, l. 17, through p. 79, l. 16). Midway through this narrative statement, Petitioner stated:

> Now, I have had nothing whatsoever officially or unofficially to do with the Drew Fairchild criminal case in federal court or state court ... I have never handled any part of it, never had a thing to do with it at all and never talked to anyone, state or federal, prosecutor or judge, in any way [to] influence anybody with respect to this case.

(Nixon Gr.J. Tr. at p. 76, ll. 10–13 & p. 76, l. 23 through p. 77, l. 1). This testimony was the basis for Count IV. Count II (the perjury count for which the jury returned a not guilty verdict) was based upon Petitioner's testimony that Wiley Fairchild had not ever discussed the Drew Fairchild criminal case with him, and had not ever asked him to do anything about that criminal case. (Nixon Gr.J. Tr. at p. 50, ll. 9–23).

17) Wiley Fairchild appeared and testified before the federal grand jury on July 18 and 19, 1984. Holmes appeared and testified before the grand jury in July and September, 1984.[3] On September 6, 1984, the grand jury indicted Wiley Fairchild on one count of paying an illegal gratuity to Petitioner in the form of the mineral royalty interests and on one count of perjury based upon Fairchild's testimony before the grand jury.

18) On October 30, 1984, Mississippi Attorney General Ed Pittman appeared at the Jackson, Mississippi, FBI offices and met with Special Agent in Charge Weldon Kennedy. Pittman advised Kennedy that John Baltar, Wiley Fairchild's assistant, had contacted Pittman and had asked Pittman to discuss certain information with Kennedy. According to Pittman, Baltar:

> indicated that Mr. [Wiley] FAIRCHILD has other significant information concerning the activities of Judge NIXON and others which he is willing to provide to the FBI if the Government will negotiate with him concerning the case on which he has been indicted. For example, BALTAR mentioned that on one occasion Mr. [Wiley] FAIRCHILD had a telephone call from BUD HOLMES who was then District Attorney in Forrest County, M[ississippi]. HOLMES put extreme pressure on Mr. [Wiley] FAIRCHILD to go through with a transfer of royalties in some oil and gas wells to Judge NIXON. HOLMES indicated to [Wiley] FAIRCHILD that this would be important if the case concerning DREW FAIRCHILD were to be disposed of with the least amount of problems for DREW FAIRCHILD. Judge NIXON was also on an extension during this phone call, and HOLMES further indicated that it really didn't matter whether the case on DREW FAIRCHILD were handled Federally or locally in Hattiesburg. On the one hand if the case were Federally handled, Judge NIXON would be able to take care of the matter, and if it were handled locally, BUD HOLMES would be able to handle the matter. HOLMES further indicated that after all he did what Judge NIXON told him to do.

(Gov't. Exh. S). Agent Kennedy relayed the above information to attorney Reid Weingarten. Weingarten directed Kennedy to tell Pittman to tell Baltar that Baltar should establish direct contact with Kennedy.

19) Later, on October 30, 1984, Baltar telephoned Agent Kennedy and stated that Wiley Fairchild wanted to cooperate with the government and that he was seeking immunity in exchange for that cooperation. Baltar indicated that Fairchild had information concerning:

> a telephone call to WILEY FAIRCHILD from District Attorney BUD HOLMES with United States District Judge NIXON also on the line. This call had something to do with the handling of the prosecution of WILEY FAIRCHILD's son, DREW FAIRCHILD. * * *
>
> [Baltar] also reiterated that from the very outset of this case, Mr. [Wiley] FAIRCHILD was under extreme pressure by BUD HOLMES and others to transfer royalties to Judge NIXON. Al-

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[3] During these grand jury appearances, neither Holmes nor Wiley Fairchild nor Petitioner revealed the following (which at the time was unknown to the United States and to the grand jury):

Sometime after the Hattiesburg Airport drug bust and after the transfer of the mineral royalty interests from Wiley Fairchild to Petitioner, Petitioner visited Wiley Fairchild in Fairchild's office. During that visit, Wiley told Petitioner that he thought that he was being blackmailed in connection with Drew's criminal case. After that visit, Petitioner and Holmes went to Holmes farm. Either enroute to or at Holmes farm, Petitioner and Holmes had a conversation wherein Drew's criminal case was mentioned. From Holmes' farm, either Holmes or Petitioner then placed a telephone call to Wiley Fairchild. Both Holmes and Petitioner spoke to Wiley during this telephone call.

At Petitioner's trial, Wiley Fairchild, Holmes, and Petitioner testified that these visits, conversations, and the telephone call occurred. They disagreed on certain details, such as the date of the visits and the telephone call and the precise content of the conversations. *See* Section C below.

> though FAIRCHILD did not realize by making such payments he was doing anything wrong, he felt that the payments were being extorted from him due to the fact that his son, DREW FAIRCHILD, was subject to possible prosecution by the Federal Government as well as by the State of Mississippi.

(Gov't. Exh. T).

20) On November 1, 1984, in the FBI office in Jackson, Wiley Fairchild made a plea bargain proffer of evidence to the United States. The United States was represented by Reid Weingarten, H. Marshall Jarrett (Weingarten's superior in the Public Integrity Section) and Agent Kennedy. Wiley Fairchild was represented by his attorney, Wallace Gunn, and was accompanied by Baltar. In his proffer, Wiley stated that Carroll Ingram had asked him to put Petitioner in a profitable investment. Fairchild said that he then did so out of fear for his son's criminal liability. Thereafter, in response to perceived blackmail threats by Bob Royals, Drew's partner at the Hattiesburg Airport, and by attorney Porter about Drew's case, Wiley told Ingram to bring Petitioner to his office. Fairchild stated that one afternoon thereafter Ingram did so. Wiley told Petitioner about his blackmail concerns. Wiley stated that later that evening[6] Petitioner telephoned him and said, "Wiley ... the man that we talked about this evening, I am over at his house.... I've talked to him and things are going to be all right." Petitioner gave the telephone to Holmes who told Wiley, "Wiley, when this man asks me to do something, ... I don't ask no questions, I just do it." (Pet. Exh. No. 12 at pp. 6–9).

21) After the proffer, Wiley Fairchild and the United States reached a plea agreement which provided: Fairchild would plead guilty to the gratuity charge; the United States would dismiss the perjury charge; and the United States would make Fairchild's cooperation known to the sentencing judge. On November 26, 1984, as agreed, Wiley Fairchild pled guilty to the gratuity charge. On November 28, 1984, Wiley testified for a second time before the Hattiesburg federal grand jury. The following is a brief summary of Wiley Fairchild's testimony during his second grand jury appearance:

> He had not been completely truthful or honest during his first grand jury appearance. After the Hattiesburg Airport drug bust, Ingram approached him about putting Judge Nixon in a good deal. Wiley Fairchild agreed to do so. Ingram asked Wiley to backdate the royalty conveyance documents. The promissory notes executed by Nixon were discussed and created only after the mineral royalty interests had been conveyed to Nixon. The $9500 price for the three investments was about one-third of their market value at the time of the transaction. After the deal was consummated, Ingram brought Nixon to Fairchild's office for a social visit. Nixon said to Fairchild: "If I can ever help you, I will. If I can't, I'll just tell you I can't." Sometime later, Royals made a blackmail demand to Fairchild on behalf of Porter. Because Wiley thought that Nixon owed him a favor for putting him in the three investments and because Wiley thought he could "deal" with Nixon, Wiley called Ingram and told him that he wanted to speak to Nixon. One afternoon soon thereafter, Ingram brought Nixon to Fairchild's office. Fairchild told Nixon that he thought he was being blackmailed by Porter, Royals, and Holmes regarding Drew's criminal case. Later that evening, Nixon telephoned Fairchild and (referring to Holmes) said: "You know the man that we was talking about this evening ... I'm out at his house.... Well, I talked to him and he said that everything is all right." Nixon then said: "He wants to talk to you." Holmes got on the telephone and said: "Wiley, when this man asks me to do something, I do it. I don't ask no questions." Sometime later, Drew's criminal case was "passed to the files."

(Wiley Fairchild, Nov. 28, 1984, Gr.J. Tr. at pp. 6–21, 24 & 29).

22) In January 1985, Ingram told the United States what he knew about Petitioner's visit to Wiley Fairchild's office and the

subsequent telephone call to Fairchild from Holmes' farm. (*See* Trial Transcript [hereinafter "Tr.Tr."] at pp. 1067–1070 & 1074–1080). In February 1985, Holmes testified before the Hattiesburg grand jury for a third time. During this appearance, Holmes admitted that there had been a telephone call.

23) Drew Fairchild's sentencing on his guilty plea in Forrest County Circuit Court was set for March 8, 1985. By letter dated March 5, 1985, Weingarten advised Glen L. White, the Forrest County District Attorney who replaced Holmes, that Drew Fairchild had cooperated in a federal grand jury investigation in Hattiesburg. (Pet. Exh. No. 4). Thereafter, White and Judge McKenzie announced that Drew Fairchild's plea agreement with Holmes would not be honored. On March 8, 1985, Drew withdrew his guilty plea. Shortly thereafter, Attorney Barry Hess, Drew's new attorney, determined that Drew was going to get an unfair and heavy sentence from Judge McKenzie. Hess telephoned Weingarten and asked Weingarten to indict Drew Fairchild federally. Hess proposed that Drew plead guilty and be sentenced in federal court. Hess anticipated using the federal plea and sentence as a bar to further proceedings in the state court.

24) On March 22, 1985, Weingarten and Jan Little, his assistant, recommended to their superiors that the United States indict Drew Fairchild. Among the reasons cited by Weingarten and Little were their opinions that:

(a) Drew Fairchild was being punished by White and McKenzie for his cooperation with the United States in the Hattiesburg grand jury investigation of Royals, Holmes, and Petitioner;

(b) White and McKenzie were friendly with and controlled by Holmes, making it unlikely that Drew would receive a fair state trial or sentence;

(c) for Drew to receive justice, he needed to be tried and sentenced in the impartial federal forum;

(d) the United States needed the cooperation of Drew and Wiley in its investigations and prosecutions of Royals, Holmes, and Petitioner;

(e) failure to indict Drew federally could jeopardize those investigations and prosecutions.

(Pet. Exh. No. 5 at pp. 2–3). The Justice Department approved the federal prosecution of Drew Fairchild. On March 29, 1985, a federal grand jury indicted Drew for his role in the marijuana smuggling conspiracy. On that same day, Drew pled guilty to that federal indictment.

25) Also on March 29, 1985, the Hattiesburg grand jury indicted Holmes for obstruction of justice because Holmes had concealed from the grand jury the fact of the Holmes–Petitioner–Wiley Fairchild telephone call from Holmes' farm, and for four counts of perjury. In June 1985, Holmes and the United States entered into a plea agreement: Holmes agreed to plead guilty to a one-count information charging him with criminal contempt for concealing the telephone call; Holmes agreed to cooperate with the government; and the government agreed to dismiss the five charges contained in the indictment. Following his guilty plea, Holmes testified before the grand jury for a fourth time on June 28, 1985.

26) On July 11, 1985, a specially designated United States District Judge sentenced Drew Fairchild on the federal indictment to six months imprisonment to be followed by two and one-half years probation.

27) On August 29, 1985, the Hattiesburg grand jury returned its four-count indictment against Petitioner described in Section A above.

28) On September 18, 1985, a specially designated United States District Judge sentenced Wiley Fairchild, then age 73, on the gratuity charge to two years imprisonment with twenty-two months of it suspended. On December 11, 1985, the same District Judge sentenced Holmes on the one-count information to one year imprisonment plus a $10,000 fine.[4]

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[4] Holmes immediately paid the fine. After Petitioner's trial, the Fifth Circuit concluded that

29) By the time his trial took place in 1986, Petitioner had received over $60,000 in income alone from the mineral investments for which he had paid $9,500. As discussed in Section A above, on February 9, 1986, the jury returned verdicts of not guilty on Counts I and II and verdicts of guilty on Counts III and IV.

30) In June 1986, after a jury trial in the United States District Court for the Northern District of Alabama, Stocks and Lewis were acquitted of the perjury and obstruction of justice charges which had been brought against them in October 1985.

C. *Trial Evidence Relating to Counts III and IV.*

On the direct appeal of Petitioner's conviction, the Court of Appeals stated, "It is undisputed that on one occasion, the exact date being unclear, [Petitioner] visited Wiley Fairchild in Fairchild's office." *United States v. Nixon*, 816 F.2d at 1025–1026. At Petitioner's trial, Wiley Fairchild and Petitioner disputed the content of their conversation in Fairchild's office. It is undisputed that, following this conversation, Petitioner and Holmes "went to Holmes' farm." *Id.* at 1026. However, at trial, Holmes and Petitioner disputed in whose car(s) they traveled and the content of their conversations enroute to the farm and at the farm. Finally, it is undisputed that a telephone call was placed from Holmes' farm to Wiley Fairchild and that both Holmes and Petitioner spoke to Fairchild during the telephone call. *Id.* at 1027–1029. However, at trial, Wiley Fairchild, Holmes, and Petitioner disputed who placed the telephone call and the content of the conversation between Fairchild and Petitioner during the telephone call. Petitioner's convictions on Counts III and IV are based upon the precise content of the disputed conversations which occurred at Fairchild's office, at Holmes' farm, and on the telephone. (Hereinafter, this sequence of events and conversations is referred to as the "disputed conversations.")

In all important respects, Wiley Fairchild, Holmes and Ingram testified at Petitioner's trial consistently with each other regarding the disputed conversations. (*See* Tr.Tr. at pp. 479–486, 517–519, 600–602, 614, 621, 639, 649–650, & 666 [Wiley Fairchild]; Tr.Tr. at pp. 736–740, 743–745, 749, 750, & 756–762 [Holmes]; and Tr.Tr. at pp. 1068–1070, 1074–1077, 1144, 1148, 1156 & 1168 [Ingram]). On the other hand, Petitioner's testimony in some instances confirmed and in other instances contradicted their version of what happened. (*See* Tr.Tr. at pp. 1512, 1513, 1515, 1524–1526, 1529–1545, 1559, 1560, 1572, 1574, 1597, 1598, 1670, 1672, 1677, & 1680 [Nixon]).

The trial testimony of Wiley Fairchild, Holmes, Ingram, and Petitioner reveals the following:

(1) The testimony of Petitioner and Wiley Fairchild concur that:

(a) Petitioner made a social visit to Fairchild in his office in early spring 1981 at which time Petitioner thanked Fairchild for the mineral royalty interest investments and said to Wiley, "If I can ever help you, I will and if I can't, I'll just tell you I can't."

(b) Sometime thereafter, Petitioner visited Wiley in his office at which time Wiley told Petitioner that he believed that he was being blackmailed by Holmes about Drew's criminal case, and that another person equally as involved as Drew had not been criminally prosecuted.

(c) During the evening of the same day as the second office visit, Wiley received a telephone call during which both Petitioner and Holmes spoke to Wiley from Holmes' farm.

(2) Petitioner and Wiley Fairchild contradicted each other with respect to:

(a) whether the disputed conversations occurred before or after Drew's criminal case was "passed to the files;"

(b) whether Wiley (through Ingram) summoned Petitioner for the second

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the authorized punishment for the crime to which Holmes pled guilty was fine or imprisonment, but not both. Because Holmes had paid his fine, the Fifth Circuit held that Holmes had satisfied his sentence and, thus, that his sentence of one year imprisonment had to be vacated. *United States v. Holmes*, 822 F.2d 481 (5th Cir.1987).

office visit and how Petitioner got to Fairchild's office;

(c) whether Petitioner or Holmes placed the telephone call from the farm; and

(d) the content of the conversation between Wiley and Petitioner during this telephone call.

(3) Petitioner and Holmes testified in agreement that:

(a) They conversed and Petitioner told Holmes that Petitioner had talked to Wiley Fairchild earlier that day during which Wiley had mentioned Drew's criminal case to Petitioner.

(b) At Holmes' farm, Holmes served a "Royal Salute" scotch whiskey.

(c) After the drink, a telephone call was placed to Fairchild during which both Holmes and Petitioner spoke to Fairchild.

(4) Petitioner and Holmes contradicted each other with respect to:

(a) whether the disputed conversations occurred before or after Drew's criminal case was "passed to the files;"

(b) whether Petitioner went to Holmes' office before the two of them went to Holmes' farm;

(c) how they got to Holmes' farm;

(d) whether they had a conversation enroute to Holmes' farm;

(e) the content of their conversations either enroute to or at Holmes' farm;[5]

(f) who placed the telephone call to Fairchild from Holmes' farm;

(g) what Petitioner said to Fairchild during that telephone call; and

(h) whether Petitioner went with Holmes to a tavern after the visit to Holmes' farm.

(5) Wiley Fairchild and Holmes testified consistently:

(a) that the disputed conversations occurred before Drew's criminal case was "passed to the files;"

(b) that Petitioner placed the telephone call from Holmes' farm to Fairchild and spoke to Fairchild first; and

(c) regarding what Petitioner and Holmes each said to Fairchild during that telephone call.

Fairchild and Holmes did not contradict each other with respect to the disputed conversations.

(6) Ingram confirmed:

(a) Holmes' and Fairchild's dating of the disputed conversations; and

(b) Holmes' testimony regarding Holmes' and Ingram's conversations about the telephone call.

D. *Section 2255 Hearing Record and Credibility of Witnesses.*

At the evidentiary hearing, Wiley Fairchild attempted to recant portions of his trial testimony, of his second grand jury appearance testimony, and of his proffer of evidence to the United States, concerning relevant historical facts. Specifically, he attempted to recant his prior testimony that the disputed conversations occurred *before* Drew's criminal case was "passed to the files." Essentially, Wiley Fairchild testified during the § 2255 hearing that, with respect to the dating of the disputed conversations, he lied to the United States during his proffer in order to induce the United States to plea bargain with him and then perjured himself during his second grand jury appearance and at Petitioner's trial.

More specifically, Fairchild testified before this Court that: (1) His proffer statement was the truth to the best of his knowledge. (E.H.Tr. at p. 239). (2) At the time of Petitioner's trial, he believed and testified that the disputed conversations occurred *before* Drew's criminal case was "passed to the files." (E.H.Tr. at pp. 222–223). (3) Yet, after his brother Rodney Fairchild refreshed his memory, he remembered that the disputed conversations occurred *after* Drew's criminal case was "passed to the files." (E.H.Tr. at pp. 201–201 & 222). (4) His testimony at Petitioner's trial to the contrary (i.e., that the disoffice visit and how Petitioner got to Fairchild's office:

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[5] Petitioner testified that he told Holmes about Wiley Fairchild's blackmail charge against Holmes. Holmes testified that Petitioner told him that Fairchild wanted Petitioner to put in a good word with Holmes regarding Drew's criminal case.

(c) whether Petitioner or Holmes placed the telephone call from the farm; and

(d) the content of the conversation between Wiley and Petitioner during this telephone call.

(3) Petitioner and Holmes testified in agreement that:

(a) They conversed and Petitioner told Holmes that Petitioner had talked to Wiley Fairchild earlier that day during which Wiley had mentioned Drew's criminal case to Petitioner.

(b) At Holmes' farm, Holmes served a "Royal Salute" scotch whiskey.

(c) After the drink, a telephone call was placed to Fairchild during which both Holmes and Petitioner spoke to Fairchild.

(4) Petitioner and Holmes contradicted each other with respect to:

(a) whether the disputed conversations occurred before or after Drew's criminal case was "passed to the files;"

(b) whether Petitioner went to Holmes' office before the two of them went to Holmes' farm;

(c) how they got to Holmes' farm;

(d) whether they had a conversation enroute to Holmes' farm;

(e) the content of their conversations either enroute to or at Holmes' farm;[5]

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[5] Petitioner testified that he told Holmes about Wiley Fairchild's blackmail charge against Holmes. Holmes testified that Petitioner told him that Fairchild wanted Petitioner to put in a good word with Holmes regarding Drew's criminal case.

Wiley Fairchild also attempted to recant his trial and second grand jury appearance testimony regarding when Ingram approached him about putting Petitioner in an investment. At trial and during his second grand jury appearance, Fairchild testified that Ingram approached him after the drug bust. (Tr.Tr. at pp. 492–493; Wiley Fairchild, Nov. 28, 1984, Gr.J. Tr. at pp. 8–9). At the evidentiary hearing, Fairchild testified that Ingram approached him before the drug bust. (E.H.Tr. at pp. 195–196 & 216).

Wiley Fairchild did *not* attempt to recant his trial and second grand jury appearance testimony regarding the content of his conversation with Petitioner during the office visit, who telephoned him that evening, the content of his conversation with Holmes and Petitioner during the telephone call, or any other of his testimony concerning the historical facts of this case.

At the evidentiary hearing, Fairchild, Baltar, Hess, and representatives of the United States, including Weingarten, testified concerning interactions among themselves about Fairchild's proffer, statements to Fairchild and Baltar by Weingarten, and the conduct of Fairchild's pretrial witness preparation session. The testimony of Fairchild and Baltar on these matters directly and irreconcilably conflicted with the testimony of Hess, Weingarten, and the other representatives of the United States.

Baltar testified about his participation in preparing Fairchild to testify at Petitioner's trial and during Fairchild's second grand jury appearance. Baltar testified that, among other things, he knowingly prepared Fairchild to testify to matters which he knew that Fairchild did not remember or did not remember clearly. Baltar justified his conduct in this regard by stating that he was doing what his boss, Fairchild, wanted him to do and told him to do. He further justified his conduct by reasoning that, because he was not present during any of the factual events which formed the basis for Fairchild's substantive testimony, he could not know which of Fairchild's substantive testimony was the truth and which was not.

This Court finds Wiley Fairchild's testimony to be self-contradictory, puzzling and incredible! Whatever factors have combined to make him the rather pathetic figure he appeared to be on the witness stand is not for this Court to determine. Suffice it to say that, as a witness before this Court, his testimony was not worthy of belief.

John Baltar's testimony on key points was in lock-step with that of his former boss, Wiley Fairchild. On certain points, it is clearly contradicted by Baltar himself, other witnesses or documentary evidence. For example:

(1) Baltar's two affidavits differ regarding the date of discussions with Weingarten concerning a pardon for Wiley Fairchild. (*Compare* Pet.Exh. No. 13 ¶ 12 *with* Pet. Exh. No. 14 ¶ 16).

(2) Wiley Fairchild testified that he personally talked to Weingarten about a pardon and that Baltar was present during that discussion. Baltar testified that Fairchild never talked to Weingarten about a pardon. (*Compare* E.H.Tr. at pp. 209–210 & 225 [Fairchild] *with* E.H.Tr. at p. 108 [Baltar]).

(3) Barry Hess contradicted the testimony of Wiley Fairchild and Baltar regarding whether there was a promise by the government that it might dismiss the gratuity charge, whether Petitioner's Exhibit No. 17 is an accurate recording of Hess' conversation with Baltar concerning Weingarten's statement to Hess about dismissing the gratuity charge, and whether Weingarten promised to help Drew Fairchild. (*Compare* E.H.Tr. at pp. 250–251 & 277–279 [Hess] *with* E.H.Tr. at pp. 45–46 [Baltar]).

(4) Little and Weingarten contradicted Baltar regarding whether the government promised to help Drew Fairchild. (*Compare* E.H.Tr. at pp. 340 & 346–347 [Little]

and E.H.Tr. at pp. 389–390 [Weingarten] *with* E.H.Tr. at pp. 85–86 [Baltar]).

(5) Wiley Fairchild testified that Baltar influenced the substance of his trial testimony, while Baltar testified that he did not know whether the substance of Wiley's trial testimony was true. (*Compare* E.H.Tr. at pp. 213–214 [Fairchild] *with* E.H.Tr. at pp. 185–187 [Baltar]).

(6) Weingarten wholly contradicted Wiley Fairchild and Baltar regarding the genesis of Petitioner's Exhibit No. 1 and whether Weingarten ever saw it before Petitioner's trial. (*Compare* E.H.Tr. at pp. 395–397 & 458–463 [Weingarten] *with* E.H.Tr. at pp. 211–216 & 231–237 [Fairchild] *and* E.H.Tr. at pp. 64–71, 79–85, 107–110, 164–178, 185, & 186 [Baltar]).

(7) Baltar's testimony regarding plea negotiations with the government before Wiley Fairchild's proffer was refuted by Agent Kennedy and the documentary evidence. (*Compare* E.H.Tr. at pp. 28–36 [Baltar] *with* E.H.Tr. at pp. 488–496 [Kennedy] *and* Gov't Exhs. S & T).

(8) Baltar initially denied any friendship with Petitioner, but later admitted that he was a friend of Petitioner. (*See* E.H.Tr. at pp. 76–79 [Baltar]).

These instances are not exhaustive, but are examples of the contradictions which pervaded Baltar's testimony.

This Court believes John Baltar's testimony was not trustworthy or credible. Neither Wiley Fairchild nor John Baltar, by manner or appearance on the witness stand, indicated any innate understanding of truthfulness. Petitioner in his post-hearing brief finds no apparent motive for the testimony of Wiley Fairchild and Baltar "beyond a simple regard for the truth." (Pet. Post–H. Br. at p. 9). Obviously, the Court rejects this argument.

The Court credits the testimony of the following witnesses generally and also specifically in the areas indicated where contradicted by Wiley Fairchild or John Baltar, or both:

(1) Attorney Barry Hess (a pardon, a government promise to drop the gratuity charge, government statements or promises about the Drew Fairchild matter).

(2) Attorney Reid Weingarten (dealings with and statements to Wiley Fairchild and John Baltar).

(3) Attorney H. Marshall Jarrett (the proffer).

(4) Agent Donald Lawless (pre-trial preparation session).

(5) Agent Weldon Kennedy (contacts by Ed Pittman and John Baltar; the proffer).

(6) Agent Kenneth White–Spunner, Jr. (the teletype).

(7) Attorney Jan Little (dealings with and statements to Wiley Fairchild and John Baltar).

This is not to say, of course, that every word uttered by these seven witnesses was perfectly remembered and precisely stated and that all utterances of Wiley Fairchild and John Baltar were false. Few witnesses recall the details of events perfectly and minor discrepancies do occur. On the other hand, at least in this case, certain basic truths emerged. This Court is convinced that the explanations given by the government's witnesses concerning certain key matters (i.e., the pardon, promises made regarding Drew Fairchild and Wiley Fairchild, the three purported Jencks Act documents, Weingarten's dealings with Wiley Fairchild, etc.) were sensible, understandable and believable under all the circumstances.

E. *Grounds 1 and 2: Failure to Disclose Favorable Evidence and Knowing Use of False Testimony.*

1. Petitioner's Allegations.

Petitioner alleges as his first ground for relief that the government failed to disclose to him certain favorable evidence in violation of the Due Process Clause and the trial court's discovery order. *See Brady v. Maryland,* 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963). Specifically, Petitioner argues that the government failed to disclose to him four promises and inducements which it had made to witnesses Wiley and Drew Fairchild in return for Wiley's guilty plea and cooperation with the government, and it failed to disclose to him certain documents containing evidence impeaching Wiley.

The four undisclosed promises or inducements which were allegedly made by the government to the Fairchilds are:

(1) a promise to Wiley that Weingarten would help him obtain a pardon after Petitioner's trial;

(2) a promise to Wiley that federal prosecutors would do what they could to help Drew Fairchild with his drug charges;

(3) a promise to Drew that federal prosecutors would not make a sentencing recommendation at his sentencing; and

(4) a promise to Wiley that federal prosecutors might dismiss the gratuity charge to which Wiley had pled guilty.

Petitioner also argues that two documents were not disclosed to him which allegedly contained evidence impeaching Wiley Fairchild: (1) statements attributed to Wiley contained in an internal FBI teletype (Pet. Exh. No. 20), and (2) statements in the government's prosecution memorandum regarding Drew Fairchild (Pet. Exh. No. 5). Petitioner contends that the teletype contained prior inconsistent statements of Wiley Fairchild and that the prosecution memorandum stated that the federal indictment of Drew was intended to induce Wiley Fairchild to cooperate with the government.

As his original second ground for relief, Petitioner charges that the government knowingly used false testimony to obtain his conviction by allowing the Fairchilds to testify in a false, incomplete and misleading manner concerning:

(1) whether the four undisclosed promises and inducements alleged as the basis for Petitioner's first ground for relief had been made; and

(2) the mutual cooperation that occurred between Wiley and the government.

Petitioner contends that the government's alleged failure to disclose favorable evidence and its alleged knowing use of the Fairchilds' false testimony prevented him from being able to impeach Wiley fully at trial. Wiley's credibility, Petitioner argues, was determinative of Petitioner's guilt or innocence on Counts III and IV because Wiley's testimony corroborated Holmes' and Ingram's testimony and contradicted Petitioner's testimony on critical historical facts.

2. Motion to Amend.

As noted in Section A above, Petitioner moved to amend his original second ground for relief to add the allegation that the government knowingly used false testimony to obtain his conviction, by allowing Wiley Fairchild to testify falsely at Petitioner's trial about:

(1) whether Ingram approached Wiley about an investment for Petitioner before or after the drug bust in 1980;

(2) whether Petitioner paid a fair market value price for the mineral investments which he obtained from Wiley;

(3) whether the disputed conversations occurred before or after Drew's criminal case was "passed to the files;" and

(4) who placed the telephone call to Wiley from Holmes' farm.

Petitioner contends that the government's knowing use of Wiley Fairchild's false testimony on these historical facts was material to his convictions because Wiley corroborated Holmes' testimony and some of Ingram's testimony and contradicted Petitioner's testimony and other parts of Ingram's testimony.

Petitioner argues that he should be allowed to amend his second ground for relief because his evidence in support of the additional allegations is the same as that offered in support of his first and unamended second grounds for relief. In view of the serious nature of Petitioner's allegation that the government knowingly used false testimony at his trial, and because the §. 2255 hearing evidence offered by both parties related to this issue, the Court will allow Petitioner to amend his second ground for relief. The Court, therefore, will consider the added charge on its merits.

3. Failure to Disclose Favorable Evidence—Legal Standards.

In *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963), the Supreme Court held that "the suppression by the prosecution of evidence favorable to the accused upon request violates due process where the evidence is material either to guilt or punishment." 373 U.S. at 87, 83 S.Ct. at 1196.

> When the credibility of a [prosecution] witness is a critical issue in a criminal case and proof of any understanding or agreement [between the witness and the prosecution] is relevant to a witness' credibility, the defendant has a right to bring this to the jury's attention.... To deny the defendant the opportunity to present to the jury any promises, agreements, and understanding between the [prosecution] and a key prosecution witness deprives the defendant of due process of law.

Joyner v. King, 786 F.2d 1317, 1319 (5th Cir.), *cert. denied*, 479 U.S. 1010, 107 S.Ct. 653, 93 L.Ed.2d 708 (1986), *citing Giglio v. United States*, 405 U.S. 150, 154–155, 92 S.Ct. 763, 766, 31 L.Ed.2d 104 (1972). Thus, the *Brady* disclosure rule applies both to direct exculpatory evidence and to evidence impeaching the prosecution's witnesses. *United States v. Bagley*, 473 U.S. 667, 676, 105 S.Ct. 3375, 3380, 87 L.Ed.2d 481 (1985); *Porretto v. Stalder*, 834 F.2d 461, 464 (5th Cir.1987); *United States v. McKenzie*, 768 F.2d 602, 610 (5th Cir.1985), *cert. denied*, 474 U.S. 1086, 106 S.Ct. 861, 88 L.Ed.2d 900 (1986).

The *Brady* disclosure rule requires the prosecution timely to disclose to the defendant all impeachment evidence "which impeaches the testimony of a [prosecution] witness where the reliability of the witness may be determinative of guilt or innocence." *Porretto*, 834 F.2d at 464. Such evidence includes all plea, sentencing, cooperation, immunity, fee and other agreements, all promises, inducements and understandings, and all criminal records. *Giglio*, 405 U.S. at 154–155, 92 S.Ct. at 766; *United States v. Newman*, 849 F.2d 156, 161 (5th Cir.1988); *Porretto*, 834 F.2d at 464; *United States v. Cervantes-Pacheco*, 826 F.2d 310, 315–316 (5th Cir.1987), *cert. denied*, — U.S. —, 108 S.Ct. 749, 98 L.Ed.2d 762 (1988); *Joyner*, 786 F.2d at 1319; *United States v. Franklin Eugene Nixon*, 634 F.2d 306, 312 (5th Cir.), *cert. denied*, 454 U.S. 828, 102 S.Ct. 120, 70 L.Ed.2d 103 (1981); *United States v. Anderson*, 574 F.2d 1347, 1354 (5th Cir. 1978).

In order to establish a violation of the *Brady* disclosure rule, the Petitioner must prove that: (1) the prosecution failed to disclose evidence, (2) which was favorable to him, and (3) which was material to the defense. *United States v. Lanford*, 838 F.2d 1351, 1355 (5th Cir.1988); *United States v. Lassiter*, 819 F.2d 84, 86 (5th Cir.1987). The third of these elements is critical. The prosecution's failure to disclose favorable evidence to Petitioner violates due process and requires setting aside the Petitioner's conviction, only if the favorable evidence was "material." *Bagley*, 473 U.S. at 669, 674–676 & 678–682, 105 S.Ct. at 3376, 3379–3380, 3381–3383; *Lanford*, 838 F.2d at 1355; *Lassiter*, 819 F.2d at 86. In *United States v. Bagley*, the Supreme Court defined the materiality standard for undisclosed evidence as follows:

> The evidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. A "reasonable probability" is a probability sufficient to undermine confidence in the outcome.

Bagley, 473 U.S. at 682, 105 S.Ct. at 3383;[6] *see Barnes v. Lynaugh*, 817 F.2d 336, 339 (5th Cir.1987); *United States v. McKellar*,

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[6] The Supreme Court derived this materiality standard from *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984), and *United States v. Agurs*, 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976).

798 F.2d 151, 153 (5th Cir.1986).[7]

4. Knowing Use of False Testimony—Legal Standards.

[1] Due process requirements of fundamental fairness prevent the prosecution from obtaining a defendant's conviction through the knowing use of material false testimony. *Bagley,* 473 U.S. at 679, 105 S.Ct. at 3382; *Agurs,* 427 U.S. at 103, 96 S.Ct. at 2397; *Giglio,* 405 U.S. at 154, 92 S.Ct. at 766; *Napue v. Illinois,* 360 U.S. 264, 271, 79 S.Ct. 1173, 1178, 3 L.Ed.2d 1217 (1959); *Mooney v. Holohan,* 294 U.S. 103, 112, 55 S.Ct. 340, 341, 79 L.Ed. 791 (1935); *Valles v. Lynaugh,* 835 F.2d 126 (5th Cir.1988); *United States v. Ramirez-Preciado,* 747 F.2d 273 (5th Cir.1984); *United States v. Antone,* 603 F.2d 566 (5th Cir.1979). " 'The same rule applies if the prosecution, although not actively soliciting false testimony, passively but knowingly allows it to go uncorrected or allows it to be presented with a materially false impression'." *United States v. Brown,* 634 F.2d 819, 827 (5th Cir.1981), *quoting United States v. Anderson,* 574 F.2d 1347, 1355 (5th Cir.1978). Further, "[t]he same result obtains even though the false nature of the evidence concerns only the credibility of an important witness, rather than the ultimate issue of guilt or innocence." *Brown,* 634 F.2d at 827.

To prevail on a claim that the prosecution obtained his conviction through the knowing use of false testimony, Petitioner must prove that: (1) the testimony was actually false, (2) the false testimony was material, and (3) the prosecution knew or reasonably should have known that the testimony was false. *United States v. Chagra,* 735 F.2d 870, 874 (5th Cir.1984); *Shaw v. Estelle,* 686 F.2d 273, 275 (5th Cir.1982), *cert. denied,* 459 U.S. 1215, 103 S.Ct. 1215, 75 L.Ed.2d 453 (1983); *Griffith v. United States,* 535 F.2d 320, 321 (5th Cir.1976). The materiality standard for false testimony is not significantly different from the *United States v. Bagley* materiality standard for violations of the *Brady* disclosure rule. *See Bagley,* 473 U.S. at 682, 105 S.Ct. at 3383. False testimony is material, and Petitioner's conviction must be set aside, "if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury." *Agurs,* 427 U.S. at 103, 96 S.Ct. at 2397; *Napue,* 360 U.S. at 271, 79 S.Ct. at 1178; *see Bagley,* 473 U.S. at 678–679 & 679 nn. 9–10, 105 S.Ct. at 3381–3382 & 3382 nn. 9–10.

5. Promises and Inducements to Witnesses.

For the reasons set forth above, the Court does not credit the testimony of Wiley Fairchild and John Baltar regarding the existence of undisclosed promises and inducements by the government to Wiley and Drew Fairchild.

(1) *The pardon.*

[2] This Court finds that the government did not promise Wiley Fairchild that it would help him obtain a pardon after Petitioner's trial. Rather, prosecutor Weingarten merely explained the pardon procedure and explained that, as a part of that procedure, he (as the prosecutor) would normally be asked to describe Wiley's cooperation with the United States. (E.H.Tr. at pp. 380–381). There is no credible evidence that Weingarten's statements regarding a pardon came close to constituting a promise or inducement to Wiley. These statements did not constitute *Brady* material.

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[7] The *United States v. Bagley* materiality standard for undisclosed favorable evidence applies to direct exculpatory evidence and to impeachment evidence, and applies whether the defendant made no request, a general request or a specific request for *Brady* materials. *Bagley,* 473 U.S. at 676–678 & 682, 105 S.Ct. at 3380–3381 & 3383. Yet, in applying this materiality standard, the reviewing court should consider whether the prosecution's failure to disclose the evidence misled the defense and thus adversely affected "the preparation or presentation of the defendant's case." *Id.* at 682–683, 105 S.Ct. at 3383–3384; *McKellar,* 798 F.2d at 153. Further, the reviewing court should consider the totality of the circumstances of the case with an awareness of the difficulty of determining what the defense would have done had the defense not been misled by the prosecutor's failure to disclose the evidence. *Bagley,* 473 U.S. at 683, 105 S.Ct. at 3384.

(2) *Help for Drew.*

[3] The government did not promise Wiley Fairchild, as a part of his plea agreement, that it would do what it could to help Drew in dealing with the drug charges against him. (E.H.Tr. at pp. 285–286, 340, 346–347, & 389–390). In March 1985 (after Wiley's guilty plea and second grand jury appearance), when Hess (acting as Drew Fairchild's attorney) asked Weingarten to indict Drew federally, Weingarten told Hess that he would do what he could to ensure that Drew was not punished for his cooperation with the United States. (E.H.Tr. at pp. 423–428). Weingarten did not intend this statement to Hess to be a promise or inducement to Wiley Fairchild or to Drew Fairchild. Nor was it so construed by Barry Hess! This statement by Weingarten to Hess did not constitute *Brady* material.

In fact, before his trial, Petitioner was fully advised about Wiley's plea agreement and about the circumstances leading to Drew's federal indictment. (*See* Pet.Exh. No. 7). By the time of his trial, Petitioner knew that Drew had been indicted and sentenced. (*See* Section B, ¶¶ 24 & 26 above). Thus, even if Petitioner had known of Weingarten's statement to Hess, the statement would have provided only minimal added impeachment evidence against Wiley Fairchild. Therefore, the Court further concludes that the statement was not material to Petitioner's defense since there is no reasonable probability that the result of Petitioner's trial would have been different if the statement had been disclosed.

(3) *Sentencing recommendation.*

[4] Weingarten did orally tell attorney Hess that he would not make a sentencing recommendation for Drew Fairchild at his sentencing. (E.H.Tr. at pp. 269–270, 287–288, & 440). There is no indication in the record that Drew or Wiley was informed of or knew about this statement. In this Court's experience (except in unusual circumstances not present here), such a statement to an attorney has little significance and does not rise to the level of a promise for *Brady* purposes. Even though both Hess and Weingarten described this statement as a promise, this Court does not believe that this statement was a true plea bargain promise. It was not made to induce any action by Drew or Wiley.

[5] For purposes of argument only, the Court will treat this assurance as a *Brady* promise. In doing so, several facts must be considered. Drew was sentenced before Petitioner's trial (and thus before Drew's and Wiley's testimony). Drew's testimony did not pertain to Counts III and IV. The Court, therefore, concludes that the added impeachment of Drew or Wiley which knowledge of the statement would have provided was not material to Petitioner's defense on Counts III and IV. There is no reasonable probability that the result of the trial would have been different had the statement been known. Thus, the government's failure to disclose to Petitioner the oral assurance to Hess regarding Drew did not deny Petitioner due process and does not warrant or require setting aside his convictions.

(4) *Dismissal of gratuity charge.*

[6] The government did not promise Wiley Fairchild, as a part of his plea agreement, that it might dismiss the gratuity charge to which he had pled guilty. Rather, Weingarten told Hess that the government would dismiss the gratuity charge only if the government concluded that Wiley had not committed the gratuity crime. Weingarten also pointed out that in light of Wiley's admission to facts establishing his guilt on the gratuity crime during his second grand jury appearance, the possibility of such dismissal was remote. (E.H.Tr. at pp. 249–251, 276–278, & 377–378). This statement to Hess was not a part of Wiley's plea agreement and clearly was not a promise or inducement to Wiley. Petitioner's contention on this point borders on the ridiculous. In fact, the government has a continuing duty to dismiss a case against any defendant who it determines is not guilty. The statement did not constitute *Brady* material. Even if Wiley and Baltar misinterpreted Weingarten's statement to Hess as an inducement (which seems most unlikely), such misinterpretation was not

reasonable and did not convert that statement into *Brady* material.

6. Undisclosed Documents.

Petitioner contends that certain government documents, Petitioner's Exhibit Nos. 20 and 5, constituted *Brady* material, because they contained information impeaching Wiley Fairchild's trial testimony. The government did not disclose either document to Petitioner.

Exhibit No. 20 is a November 2, 1984, internal FBI teletype communication sent from the Jackson FBI office to FBI Headquarters. FBI Agent Kenneth White–Spunner, Jr., prepared the teletype on the day following Wiley Fairchild's proffer to the United States. In the teletype, Agent White–Spunner attempted to summarize Mississippi Attorney General Ed Pittman's and Baltar's contacts with Agent Kennedy, Wiley's proffer on November 1, 1984 and a contact by Baltar with the United States on November 2, 1984. (*See* Gov't Exh. S & T; Section B ¶¶ 18–20 above). The teletype contains three items of information which Petitioner contends are favorable and material to his case, i.e., (1) that Baltar told Kennedy that Wiley wanted immunity in exchange for his cooperation, (2) that Wiley stated at his proffer that the telephone call to Wiley from Holmes' farm occurred in December 1982, and (3) that Wiley stated at his proffer that Holmes placed the telephone call.

Petitioner's arguments are without merit. An FBI internal teletype, such as Exhibit No. 20, is intended to quickly advise FBI Headquarters in very summary fashion about an investigation. An agent usually prepares the teletype by summarizing available investigative information. Although the internal teletype is intended to be as accurate as possible, it is often based upon second-hand knowledge.

[7] The first item of information in the teletype, i.e., the fact that Baltar told Kennedy that Wiley wanted immunity in exchange for cooperation, was not a part of y's plea agreement and was not a mise or inducement to Wiley. Rather, it was merely a request by Wiley during the plea negotiations. Absolute immunity was never agreed to by the government. Therefore, the information did not constitute *Brady* material. The government was under no obligation to disclose the teletype merely because it indicated that Wiley wanted immunity in exchange for cooperation.

[8] The statements attributed to Wiley in the second and third items of information were not made by Wiley in his proffer, although Agent White–Spunner erroneously attributed them to Wiley's proffer. Agent White–Spunner was not present at Wiley Fairchild's proffer. His teletype summary is based upon two FBI Form 302s (Gov't Exhs. S & T) and second-hand information provided to White–Spunner by Weingarten, Jarrett and Kennedy. Weingarten, Jarrett and Kennedy did not tell White–Spunner that Wiley Fairchild stated in his proffer that the telephone call occurred in December 1982 and that Holmes placed it, but White–Spunner nevertheless erroneously included these two items in his summary of the proffer. The statement in the teletype that Holmes placed the telephone call was taken from the two FBI Form 302s, which White–Spunner also summarized, but which were not statements of Wiley Fairchild. (E.H.Tr. at pp. 510–517). The origin of the statement in the teletype that the telephone call occurred in December 1982 is not clear. However, Wiley Fairchild did not state this in his proffer. Therefore, Exhibit No. 20 does not contain reliable evidence favorable to Petitioner and it did not constitute *Brady* material.[8]

[9] Exhibit No. 5 is the government's internal prosecution memorandum regarding Drew Fairchild. It was ordered disclosed to Petitioner by this Court prior to the § 2255 hearing. It contains Weingarten's and Little's considerations of factors for and against prosecuting Drew Fairchild

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[8] The Court also rejects Baltar's and Wiley's testimony that Wiley made material statements at the proffer and during the interview before the proffer which were not included in the proffer transcript.

in federal court. It is not evidence that the prosecution of Drew was part of an agreement between the government and Wiley Fairchild. Petitioner misconstrues Exhibit No. 5 to say that the government prosecuted Drew federally in order to induce Wiley to cooperate with the United States.

[10] Exhibit No. 5 does not contain evidence favorable to Petitioner and it did not constitute *Brady* material. It was the work-product of government attorneys which was exempt from discovery at his trial. *See* Fed.R.Crim.P. 16(a)(2). Furthermore, Drew was indicted and sentenced in federal court before Petitioner's trial. This was known by Petitioner before trial. Accordingly, even if Exhibit No. 5 had been available to Petitioner at trial, there is no reasonable probability that this would have altered the result of the trial.

7. False Testimony.

Petitioner alleges that Wiley Fairchild and Drew Fairchild testified falsely at trial about the four government promises and inducements which are described in Section E.1. above. This Court has found above that no such promises or inducements were made. Therefore, their testimony on these matters was not false.

Based upon Wiley Fairchild's attempted recantation of portions of his trial testimony during the § 2255 hearing, Petitioner argues that Wiley testified falsely at Petitioner's trial about four additional matters: (1) the date of the Ingram approach to Wiley Fairchild, (2) whether Petitioner paid a fair market value price for the mineral investments, (3) the date of the disputed conversations, and (4) who placed the telephone call.

[11] With respect to factual issue (1), the date of Ingram's approach to Wiley has doubtful relevance to whether Petitioner committed the acts of perjury charged in Counts III and IV. That the approach occurred in 1979 does not establish that the investments were made before the drug bust. That the approach occurred in 1979 does not in any way affect the content of the disputed conversations. That the approach occurred in 1979 does not materially impeach Wiley Fairchild with respect to the content of the disputed conversations. The Court, therefore, concludes that there is no reasonable likelihood that Wiley's trial testimony regarding the date of the Ingram approach, even if deemed false, could have affected the judgment of the jury.

Moreover, even assuming that Ingram approached Wiley about an investment for Petitioner in 1979,[9] and that Wiley's trial testimony that this occurred after the drug bust was false, Petitioner has failed to establish that the government knew that Wiley's trial testimony on this issue was false.

Wiley Fairchild did *not* testify at the evidentiary hearing that his trial testimony with respect to factual issues (2) and (4) was false. Wiley's testimony before Congress is insufficient to demonstrate in this proceeding that his trial testimony on those two issues was false. Moreover, even if Wiley's trial testimony on those two issues was false, Petitioner has not demonstrated that the government knew it was false. Thus, Petitioner has not demonstrated that the government knowingly used false testimony on factual issues (2) or (4) to obtain Petitioner's conviction.

For the reasons set forth in Section D above, the Court rejects Wiley Fairchild's attempted recantation with respect to factual issue (3). Petitioner has not established that Wiley's trial testimony on this issue was false. Thus, Petitioner has not demonstrated that the government knowingly used false testimony on this issue to obtain his convictions.[10]

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[9] Both Petitioner and Ingram testified that Ingram approached Fairchild before the Hattiesburg Airport drug bust. (Tr.Tr. at pp. 1476–77, 1479 & 1482–1484 [Nixon] and at pp. 1026–1031 [Ingram]).

[10] The parties have devoted considerable attention to whether the government's alleged failure to disclose favorable evidence and alleged knowing use of false testimony were material to Petitioner's convictions on Counts III and IV. The Court declines to reach this materiality question where the Court finds that the government did not fail to disclose favorable evidence or did not knowingly use false trial testimony.

[12] Therefore, Petitioner's first and second grounds for relief are without merit.[11]

F. *Ground 3: Jencks Act Violations.*

1. Petitioner's Allegations.

As his third ground for relief Petitioner alleges that the government failed to disclose three documents in violation of the Due Process Clause, the Jencks Act (18 U.S.C. § 3500) and the trial court's discovery order regarding Jencks Act materials. Petitioner contends these documents are pretrial statements of witness Wiley Fairchild which would have materially aided him in his cross-examination of Fairchild.

Petitioner timely filed a pre-trial motion for production of all Jencks Act materials. The government responded by agreeing to produce one week before trial all Jencks Act materials for any witnesses whom it planned to call at trial. The trial court accepted the government's agreement as its ruling on Petitioner's motion. (Pet. Exh. No. 6). It is undisputed that the government did not produce the three documents which are the subject of Petitioner's third ground for relief.

The government argues that claims alleging violations of the Jencks Act and of related discovery orders are not cognizable under § 2255 and that this ground for relief is factually without merit. The government asserts that it fully complied with its disclosure obligations.

2. Jencks Act—Legal Standards.

The Fifth Circuit has not explicitly ruled whether claims of failure to produce Jencks Act materials are cognizable grounds for relief under § 2255. *Cf. Williams v. United States*, 488 F.2d 963, 964 (5th Cir.1974). This Court will assume that in the Fifth Circuit claims of failure to produce Jencks Act materials are cognizable under § 2255. *Cf. United States v. Addonizio*, 442 U.S. 178, 185, 99 S.Ct. 2235, 2240, 60 L.Ed.2d 805 (1979); *Strand v. United States*, 780 F.2d 1497, 1499–1501 (10th Cir.1985); *Krilich v. United States*, 502 F.2d 680, 686 (7th Cir.1974), *cert. denied*, 420 U.S. 992, 95 S.Ct. 1429, 43 L.Ed.2d 673 (1975).

Congress enacted the Jencks Act, 18 U.S.C. § 3500, in 1957 to codify the rule established by *Jencks v. United States*, 353 U.S. 657, 77 S.Ct. 1007, 1 L.Ed.2d 1103 (1957). *See Palermo v. United States*, 360 U.S. 343, 346, 79 S.Ct. 1217, 1221, 3 L.Ed.2d 1287 (1959). The Jencks Act requires, upon the defendant's motion, that the government produce to the defendant: (1) any written or recorded statement of a United States witness (2) that is in the possession of the prosecution and (3) that (i) has been signed or otherwise adopted or approved by the witness, or (ii) is a substantially verbatim recital of the witness' oral statements, or (iii) is the witness' grand jury testimony. *Goldberg v. United States*, 425 U.S. 94, 103, 96 S.Ct. 1338, 1344, 47 L.Ed.2d 603 (1976); *United States v. Newman*, 849 F.2d 156, 160 (5th Cir.1988); *United States v. Welch*, 810 F.2d 485, 490 (5th Cir.), *appeal after remand*, 817 F.2d 273 (5th Cir.), *cert. denied*, — U.S. —, 108 S.Ct. 350, 98 L.Ed.2d 376 (1987); *United States v. Trevino*, 556 F.2d 1265, 1271 (5th Cir.1977). The burden of showing entitlement to production is on the defendant. *United States v. Merida*, 765 F.2d 1205, 1216 (5th Cir. 1985).

[13, 14] Written documents prepared by government agents and witness interview notes taken by government agents, including government attorneys' notes taken during pretrial witness preparation sessions, are Jencks Act materials, if the witness has signed or otherwise adopted or approved the documents or if the documents are a

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[11] Petitioner requests that the Court treat his § 2255 motion to vacate as a motion for new trial based upon newly discovered evidence. *See Mitchell v. United States*, 368 U.S. 439, 82 S.Ct. 462, 7 L.Ed.2d 429 (1962) (per curiam). So treated, Petitioner's request for a new trial is denied because his newly discovered evidence (the alleged undisclosed promises and inducements, the undisclosed government documents, and Wiley Fairchild's attempted recantation) is either not material to Petitioner's convictions on Counts III and IV or is not such that a new trial would probably result in an acquittal. *United States v. Adi*, 759 F.2d 404, 407 (5th Cir.1985); *United States v. Bi–Co Pavers, Inc.*, 741 F.2d 730, 736 (5th Cir.1984).

contemporaneously made, substantially verbatim recital of the witness' oral statements. *Goldberg v. United States*, 425 U.S. at 101–108, 96 S.Ct. at 1343–1347; *id.* at 114, 96 S.Ct. at 1350 (Stevens, J., concurring); *Campbell v. United States*, 373 U.S. 487, 497, 83 S.Ct. 1356–1362, 10 L.Ed.2d 501 (1963); *United States v. Newman*, 849 F.2d at 160; *United States v. Hodges*, 556 F.2d 366, 368 (5th Cir.1977), *cert. denied*, 434 U.S. 1016, 98 S.Ct. 735, 54 L.Ed.2d 762 (1978); *cf. United States v. Welch*, 810 F.2d at 490. However, the government interviewer is not required to conduct the witness interview or to take interview notes in a fashion that creates Jencks Act materials. *United States v. Martino*, 648 F.2d 367, 387 (5th Cir.), *reconsidered in part*, 650 F.2d 651 (5th Cir.1981) (vacating judgment against one defendant on other grounds), *cert. denied*, 456 U.S. 943, 102 S.Ct. 2006, 72 L.Ed.2d 465 (1982).

[15–17] Interview notes which are not a substantially verbatim transcription of the interview are not a Jencks Act statement of the witness interviewed, unless it is shown that the witness specifically adopted or approved them. *United States v. Gates*, 557 F.2d 1086, 1089 (5th Cir.1977), *cert. denied*, 434 U.S. 1017, 98 S.Ct. 737, 54 L.Ed.2d 763 (1978). The witness' general approval of the substance of the notes is not sufficient to constitute adoption or approval. *United States v. Judon*, 567 F.2d 1289, 1292 (5th Cir.1978). Moreover, a mere verbal exchange between the interviewer and the witness over the substance of the witness' testimony, with the interviewer relying upon his notes, does not effect an adoption or approval of the notes by the witness. *Goldberg v. United States*, 425 U.S. at 110 n. 19, 96 S.Ct. at 1348 n. 19; *United States v. Newman*, 849 F.2d at 160. Similarly, the interviewer rereading portions of his notes back to the witness to ensure accuracy does not constitute adoption or approval. *United States v. Hogan*, 763 F.2d 697, 704 (5th Cir.), *opinion withdrawn in part*, 771 F.2d 82 (5th Cir.1985), *appeal after remand*, 779 F.2d 296 (5th Cir.1986).

With these precepts in mind, the Court will consider the three documents identified by Petitioner and claimed to be Jencks Act statements of witness Wiley Fairchild.[12]

3. Prosecutor's Outline.

[18] The first document, Petitioner's Exhibit Nos. 22 and 22A, penned by Reid Weingarten, is a two-page handwritten rough outline (consisting of approximately 65 words) of Wiley Fairchild's possible testimony. Petitioner's § 2255 attorneys represented that, at some point prior to the § 2255 evidentiary hearing, the original of this document was discovered in the files of Fairchild Construction Company. (E.H.Tr. at p. 433). Neither Wiley Fairchild nor John Baltar testified about the circumstances of their receipt and retention of this document nor about their use of it. Weingarten testified that he must have given it to one of them, but he did not recall the circumstances, except that he could have given it to either Fairchild or Baltar before Fairchild's second grand jury appearance or before Fairchild's trial testimony. (E.H.Tr. at pp. 433–434).

On its face, Weingarten's outline is not a written statement by Wiley Fairchild setting forth his testimony. Rather, it is a rough outline of some of the possible points of Fairchild's testimony. Even if Weingarten had given it to Fairchild to use in preparing for his testimony or in preparing other documents, no evidence established that Fairchild read it, signed it, or adopted it in any fashion before trial. No evidence established that it was a verbatim record of an oral statement of Fairchild. Finally, although prepared by Weingarten, there is no evidence that it was in the possession of the United States government when Petitioner's pre-trial motion for disclosure was filed or thereafter.

4. Baltar's Chronology.

[19] The second document, Petitioner's Exhibit No. 18, penned by John Baltar, is a four-page handwritten chronology of key events. Baltar testified that he prepared it at Weingarten's direction before Fairchild's second grand jury appearance. Baltar derived it in part from another document (Pet. Exh. No. 19), which he had prepared after going through attorney Gunn's files. Baltar testified that he obtained some of the factual information in it from Weingarten and that Weingarten told him that Wiley Fairchild had to get certain important facts right in his second grand jury appearance. Baltar testified that he then included those important facts in this document even though Fairchild did not clearly remember those facts. Finally, Baltar testified that Wiley Fairchild studied this document in preparing for his second grand jury appearance. (E.H.Tr. at pp. 51–54, & 158–160). From these facts, the Court concludes that this document was a written statement of witness Wiley Fairchild. Wiley Fairchild adopted or approved it after Baltar prepared it for him. Fairchild studied or used it in preparing for his second grand jury appearance.

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[12] As the following discussion indicates, none of these documents was "in the possession of the United States" so as to render them discoverable under the Jencks Act.

Weingarten testified that he suggested that Baltar and Fairchild prepare Fairchild for the second grand jury appearance and that they should prepare a writing containing the important facts that Wiley Fairchild would testify to. Weingarten testified that he advised Baltar to write down the relevant facts and events and to discuss them in the context of when they happened, but that he did *not:* give Baltar factual information for this purpose, tell Baltar that Fairchild had to testify to certain specific facts and had to get those facts right, or tell Baltar to include those facts in the document. Weingarten merely advised Baltar to write down the relevant, truthful facts of which Wiley Fairchild had personal knowledge. Finally, Weingarten testified that he reviewed the document with Baltar and Fairchild prior to Fairchild's second grand jury appearance. (E.H.Tr. at pp. 374, 377, 395, & 431–436).

The Court finds that Weingarten merely suggested that Baltar prepare the document and include in it the relevant, truthful facts of which Fairchild had personal knowledge. Weingarten did not give Baltar factual information and did not direct Baltar that Fairchild had to testify to certain specific facts. The government had no role in determining the contents of the document. The mere fact that Weingarten saw it when he reviewed its contents with Baltar does not establish government possession of it. It is not Jencks Act material.

5. Baltar's Notes.

[20] The third document, Petitioner's Exhibit No. 1, is a three-page typed outline of Fairchild's testimony, in question and answer form. The genesis of this document, and the conducting of a related pretrial witness interview session for Wiley Fairchild, are in dispute. (*See* E.H.Tr. at pp. 64–71, 79–85, 107–110, 164–178, & 185–186 [Baltar]; E.H.Tr. at pp. 211–213, 214–216, & 231–237 [Wiley Fairchild]; E.H.Tr. at pp. 395–397, & 458–463 [Weingarten]; and E.H.Tr. at pp. 522–524 [Lawless]).

The Court finds that a few days before Wiley Fairchild was to testify at Petitioner's trial, Weingarten interviewed Fairchild in Fairchild's office. Such pretrial witness interviews are commonplace and are a proper method of trial preparation. Also present, at this interview were FBI Agent Lawless, who had driven Weingarten to the interview and Baltar. During the interview, Weingarten asked Fairchild questions he expected to use at trial. In doing this, Weingarten read from a list of questions he had prepared. Weingarten did not ever show his question list or his notes to Baltar or Fairchild. During the interview, Baltar took his own notes of Weingarten's questions and Fairchild's answers. Petitioner's Exhibit No. 1 is a typed copy of Baltar's notes. Weingarten never saw Baltar's notes or Exhibit No. 1 before this § 2255 proceeding.

Petitioner has not established that Wiley Fairchild adopted or approved any pretrial witness interview notes or any other documents in Weingarten's possession. Petitioner has not established that Baltar's notes or Exhibit No. 1 were ever in Weingarten's possession, that Baltar's notes or Exhibit No. 1 were derived from any document in Weingarten's possession, or that

Weingarten's pretrial witness interview notes were Jencks Act materials.

There was no failure by the government to disclose information favorable to Petitioner before trial. *See Brady v. Maryland,* 373 U.S. 83, 87, 83 S.Ct. 1194, 1196, 10 L.Ed.2d 215 (1963). The first document does not contain any evidence favorable to Petitioner, and the other two documents were never in the government's possession. Thus, Petitioner has not established that the government's failure to produce these three documents violated his due process rights.

For the foregoing reasons, Petitioner's third ground for relief is without merit.

G. *Ground 4: Perjury Trap.*

1. Petitioner's Allegations.

In his fourth ground for § 2255 relief, Petitioner claims that the government prosecutors' questions to him before the grand jury on July 18, 1984, constituted a "perjury trap". He argues that the government's questions to him manufactured a perjury charge through which he was entrapped.

The Count III conviction was based upon the following question and answer:

Weingarten:	Did [Holmes] ever discuss the Drew Fairchild case with you?
Nixon:	No, not to the best of my recollection. I think I would recall if he had.

(Nixon Gr.J.Tr. at p. 47, l. 25 through p. 48, l. 3).

The Count IV conviction was based upon the following exchange:

Weingarten:	All right. Judge, do you have anything you want to add?
Nixon:	... Now, I have had nothing whatsoever officially or unofficially to do with the Drew Fairchild criminal case in federal court or state court ... I have never handled any part of it, never had a thing to do with it at all and never talked to anyone, state or federal, prosecutor or judge, in any way [to] influence anybody with respect to this case....

(Nixon Gr.J.Tr. at p. 75, ll. 14–15, p. 76, ll. 10–13, & p. 76, l. 23 through p. 77, l. 1).

2. Perjury Trap—Legal Standards.

[21, 22] The perjury trap theory is founded upon the Due Process Clause prohibition against "outrageous government misconduct." *United States v. Simone,* 627 F.Supp. 1264, 1268 (D.N.J.1986); *see Hampton v. United States,* 425 U.S. 484, 495 n. 7, 96 S.Ct. 1646, 1653 n. 7, 48 L.Ed. 2d 113 (1976) (Powell, J., concurring) ("demonstrable level of outrageousness"). "The 'perjury trap' theory asserts that prosecutorial misconduct designed to trap a witness into perjuring himself before a grand jury is misconduct so severe as to constitute a violation of the witness' due process rights." *United States v. Phillips,* 674 F.Supp. 1144, 1146 (E.D.Pa.1987). A perjury trap occurs when the government abuses the grand jury process by using its investigatory powers to secure an indictment for perjury on matters which are not material or germane to a legitimate investigation of the grand jury. *United States v. Crisconi,* 520 F.Supp. 915, 920 (D.Del. 1981).

[23] In order to establish a perjury trap, Petitioner must establish that his testimony had no tendency to support any possible action of the grand jury within its investigatory role and that the grand jury called him to testify with the purpose of eliciting perjury. *Brown v. United States,* 245 F.2d 549, 555 (8th Cir.1957). Petitioner must establish that the prosecutor questioning him before the grand jury had a "premeditated design" and a "sole or primary purpose" to trap him into committing perjury through unfair means. *United States v. Caputo,* 633 F.Supp. 1479, 1486 (E.D.Pa.1986), *rev'd on other ground sub nom. United States v. Martino,* 825 F.2d 754 (3rd Cir.1987); *Simone,* 627 F.Supp. at 1269; *see generally* Gershman, *The "Perjury Trap",* 129 U.Pa.L.Rev. 624, 683–687 (1981). If the questions posed to the witness are material to a legitimate grand jury investigation, then the government has not elicited or caused the perjury and there generally can be no perjury trap. *See United States v. Nickels*, 502 F.2d 1173, 1176 (7th Cir.1974), *cert. denied*, 426 U.S. 911, 96 S.Ct. 2237, 48 L.Ed.2d 837 (1976); *Masinia v. United States*, 296 F.2d 871, 877 (8th Cir.1961); *Brown*, 245 F.2d at 555.

3. Discussion.

[24] Initially, the Court notes certain fatal flaws in Petitioner's perjury trap claim. A determinative issue of a perjury trap claim is whether the allegedly perjurious testimony was material to the grand jury's investigation. *See Nickels*, 502 F.2d at 1176; *Masinia*, 296 F.2d at 877.[13] The Court concludes that the questioning to which Petitioner objects was material to the grand jury's investigation. The grand jury was investigating whether Drew Fairchild's state court criminal case was corruptly influenced by Petitioner or others. The federal prosecutors had received allegations from Skip Jarvis that Petitioner interceded for Drew because Petitioner had obtained mineral interests from Wiley Fairchild. The evidence indicated that the conveyance documents and the promissory notes for those investments were executed after the Hattiesburg Airport drug bust, but were backdated to reflect an execution date prior to the drug bust. At the time of Petitioner's testimony before the grand jury, the grand jury and the government did not have any information that either Holmes or Wiley Fairchild had discussed Drew's criminal case with Petitioner. Thus, it was clearly material to the grand jury's investigation to hear testimony from Petitioner about his receipt of the mineral interests from Wiley Fairchild, about the backdating of the conveyance documents and the promissory notes and about any discussions he had with Holmes or Wiley Fairchild about Drew's criminal case. Weingarten's question, "Did [Holmes] ever discuss the Drew Fairchild case with you?," was material to the grand jury's investigation. Hence, it did not constitute a perjury trap.

A perjury trap claim also requires proof of an unlawful purpose for the government calling the witness to testify before the grand jury. *Brown*, 245 F.2d at 555. Petitioner was not called or compelled to testify before the grand jury. Rather, he voluntarily appeared and testified. Moreover, he concedes that the prosecutor had a legitimate purpose in questioning him there. He merely disputes the legitimacy of the Count III question. (Pet.Memo. in Supp. of Mot. to Vac. at p. 46).

[25] The perjury trap claim is relevant only to the Count III conviction. It has no application to the Count IV conviction, because Petitioner's testimony upon which that conviction is based is his own voluntary narrative statement. It was given in response to Weingarten's open-ended invitation to Petitioner to speak to the grand jury: "All right. Judge, do you have anything you want to add?" (Nixon Gr.J. Tr. at p. 75, ll. 14–15). Petitioner's subsequent narrative testimony (Nixon Gr.J.Tr. at p. 75, l. 17, through p. 79, l. 16), was material to the grand jury's investigation, was not elicited by specific questioning and was not induced by any government misconduct.

Petitioner's perjury trap claim is substantially premised upon two arguments: first, that Weingarten actively misled Petitioner during the April interview when he told Petitioner that the government did not have any information which showed a connection between Petitioner and the handling or disposition of the Drew Fairchild criminal case; and, second, that Weingarten knowingly and intentionally trapped Petitioner into committing perjury during his grand jury appearance because Weingarten had no legitimate reason to ask: "Did [Holmes] ever discuss the Drew Fairchild case with you?" Petitioner so contends because Weingarten already knew (based upon the April interview) that Petitioner's answer would be: "No."

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[13] This issue was determined adversely to Petitioner in the trial when District Judge Meredith ruled that Petitioner's testimony, which formed the basis for Counts III and IV, was material to the grand jury's investigation. On direct appeal, Petitioner did not challenge this ruling. *United States v. Nixon*, 816 F.2d at 1029. Although this ruling is likely dispositive of the perjury trap issue, the Court will consider this materiality question because of Petitioner's reliance on the perjury trap theory.

With respect to the first of these arguments, Petitioner wholly distorts the meaning of Weingarten's statement to Petitioner's question by removing it from the context of the entire interview. During the interview, Weingarten unambiguously informed Petitioner that the government was investigating Petitioner's mineral royalty investments with Wiley Fairchild, because the government had a confidential informant who alleged that there was an illicit connection between Petitioner and the Drew Fairchild criminal case. (Int.Tr. at pp. 37–38). Likewise, Weingarten clearly told Petitioner that the reason he asked him whether Holmes or Wiley Fairchild had ever discussed Drew's criminal case with him was to determine if there was any connection between Petitioner and the case. (Int.Tr. at pp. 46–47). Further, in their discussion, Weingarten and Petitioner discussed the fact that troubling questions were raised by the execution of and backdating of the conveyance documents and the promissory notes, to reflect an execution date prior to the drug bust.

In this context, Weingarten's statement meant that, other than the confidential informant's allegations and the backdating of the conveyance documents and the promissory notes, the government did not at that time have any information showing a connection between Petitioner and the handling or disposition of the Drew Fairchild criminal case. Moreover, until October 30, 1984, when Mississippi Attorney General Ed Pittman and Baltar spoke to FBI Agent Kennedy, the government did not have any information showing such a connection. Thus, Weingarten's statement was truthful and not misleading.

Petitioner's reliance upon *Cox v. Louisiana*, 379 U.S. 559, 85 S.Ct. 476, 13 L.Ed.2d 487 (1965), *Raley v. Ohio*, 360 U.S. 423, 79 S.Ct. 1257, 3 L.Ed.2d 1344 (1959), and *Johnson v. United States*, 318 U.S. 189, 63 S.Ct. 549, 87 L.Ed. 704 (1943), is unavailing. In *Cox*, local officials misled Cox when they told him that he could legally demonstrate at a specific location. When he later demonstrated there, he was charged with a crime. 379 U.S. at 571, 85 S.Ct. at 484. In *Raley*, the defendants were misled by the members of the Ohio legislative committee who erroneously told the defendants that they could validly assert their privilege against self-incrimination. 360 U.S. at 437–438, 79 S.Ct. at 1265–1266. In *Johnson*, the trial court misled Johnson by granting him his claim of privilege against selfincrimination and then allowing the prosecutor to comment during closing argument on Johnson's claim of privilege. 318 U.S. at 196–197, 63 S.Ct. at 553. Petitioner has not shown any misleading of him by the government either during the April interview or during his grand jury appearance. The Court concludes that this first argument is factually and legally without merit.

Concerning Petitioner's second argument (that Weingarten knew that Petitioner's answer to the question, "Did [Holmes] ever discuss the Drew Fairchild case with you?" would be, "No"), Weingarten did not commit prosecutorial misconduct by asking the question. Weingarten did not at that time have any information that Petitioner's answer would be perjurious. Further, Petitioner's "No" answer was material to the grand jury's investigation into the handling and disposition of the Drew Fairchild criminal case. Weingarten had a legitimate purpose for asking the question and there is no basis for concluding that Weingarten knowingly and intentionally asked the question in order to trap Petitioner into lying. Therefore, this second argument is factually without merit.

Petitioner's remaining arguments in support of his perjury trap claim are equally without merit. Weingarten's question was not "innocuous-seeming and ambiguous." (Pet.Memo. in Supp. of Mot. to Vac. at p. 45). Rather, the question pointedly sought to determine whether there was any contact between Petitioner and Holmes regarding the Drew Fairchild criminal case. It strains credulity to believe that Petitioner, an experienced federal judge, could find that Weingarten's question was innocuous and ambiguous, when that question is considered in the context of Weingarten's thorough questioning about his investments with Wiley Fairchild. (Nixon Gr.T.Tr. at pp. 5–44), and his knowledge of the Drew Fairchild criminal case. (Nixon Gr.J.Tr. at pp. 45–50). The juxtaposition of these lines of questioning refutes the argument that the question was "innocuous-seeming." Nor was the question ambiguous. *United States v. Nixon*, 816 F.2d at 1029. Petitioner's answer was not ambiguous and it was not truthful.[14] His answer to Weingarten's question was an absolute, unwaivering, "No." (Nixon Gr.J.Tr. at p. 48. ll. 2–3). Thus, there was no reason whatsoever for Weingarten to continue the line of questioning with follow-up questions.

Based upon the foregoing, the Court concludes that Petitioner has not made even a colorable showing that Weingarten's questioning constituted a perjury trap. Therefore, Petitioner's fourth ground for relief is without merit.

H. *Ground 5: Challenges to the Prosecution.*

1. Petitioner's Allegations.

As his fifth ground for relief, Petitioner alleges that, in violation of his due process rights, the government prosecutors "targeted [Petitioner] for investigation with improper motives and purposes and through improper means." Petitioner charges the government with prosecutorial misconduct during the investigatory and grand jury stages of the proceedings against him. He argues that the government intentionally obtained federal indictments charging Wiley Fairchild, Holmes, Stocks, and Lewis with baseless charges[15] in order to induce and coerce them into providing incriminating evidence against him. Petitioner also charges that the government wrongfully allowed Wiley Fairchild to testify before the grand jury on November 28, 1984, that he thought that one Preacher Shows had been able to obtain a reduction in his son's sentence by paying Holmes to intercede with Petitioner, despite the government's knowledge that Petitioner was not the federal judge who handled any aspect of the son's case. In addition, Petitioner argues that the government investigated his investments with Wiley Fairchild and prosecuted him on the gratuity and perjury charges, in order to retaliate against him for rendering the $6.1 million judgment in the Petit Bois Island condemnation proceedings.[16]

2. Prosecutorial Misconduct.

Petitioner's overriding argument in this fifth ground for relief is that the government's methods and motive during its investigation of him constituted pretrial prosecutorial misconduct which requires that his convictions be overturned. In determining his entitlement to relief on this basis, this Court must employ the harmless error standard to determine whether Petitioner suffered any prejudice as a result of any pretrial prosecutorial misconduct. *United States v. Mechanik,* 475 U.S. 66, 70–73, 106 S.Ct. 938, 941–943, 89 L.Ed.2d 50 (1986); *United States v. Hasting,* 461 U.S. 499, 505–509, 103 S.Ct. 1974, 1978–1980, 76 L.Ed.2d 96 (1983); *see Bank of Nova Scotia v. United States,* — U.S. —, 108 S.Ct. 2369, 2374, 101 L.Ed.2d 228 (1988). This Court must determine whether, on the whole record, any proven pretrial prosecutorial misconduct, measured by the jury's guilty verdicts, was harmless beyond a reasonable doubt. *Mechanik,* 475 U.S. at 70, 106 S.Ct. at 941; *Hasting,* 461 U.S. at 510, 103 S.Ct. at 1981; *see Chapman v. California,* 386 U.S. 18, 87 S.Ct. 824, 17 L.Ed.2d 705 (1967).

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[14] Petitioner's own trial testimony demonstrates that his answer to Weingarten's question was not truthful. First, at his trial, petitioner testified that, sometime after January 26, 1983, but before March 11, 1983, he spoke to Holmes and (commenting generally on the media accounts of Holmes' handling of the Drew Fairchild criminal case) said: "Well Holmes, you screwed up again." (Tr.Tr. at pp. 1525–1526). Second, at his trial, Petitioner testified that, on March 11, 1983, he said to Holmes: "Bud, I've been talking to Wiley Fairchild. And ... he is accusing you of blackmailing him ... with reference to this matter some matter with his son." Holmes responded: "The son of a bitch is paranoid.... Everybody is after his money, he's got so much he'll never be able to spend it, he's crazy." Then Holmes said: "Let me tell you about the case." Petitioner responded: "Bud, I don't want to hear about the case." Holmes said: "Well, the thing's all worked out anyway. I don't understand what he's talking about." (Tr.Tr. at pp. 1538–1539).

[15] The grand jury indicted Wiley Fairchild on one count of paying an illegal gratuity to Petitioner in the form of the mineral royalty investments and one count of perjury based upon Fairchild's prior grand jury testimony. It indicted Holmes on four counts of grand jury perjury and one count of obstruction of justice. Stocks was indicted on three counts of perjury and one count of obstruction of justice. Lewis was indicted on one count of perjury and one count of aiding and abetting Stocks' obstruction of justice.

[16] During this § 2255 proceeding, the Court denied Petitioner discovery relating to Petit Bois Island. The Court did so because Petitioner's initial showing in support of his retaliation theory, when gauged against the legal standards which govern on that theory, was insufficient to warrant discovery or an evidentiary hearing. *See infra* footnote 1. On this basis, Petitioner's discovery request amounted to no more than a fishing expedition.

[26] Petitioner has not shown that the charges against Fairchild and Holmes were baseless. Rather, the record before this Court demonstrates that the charges against Fairchild and Holmes were factually supported.[17]

Although Petitioner charges that the government brought baseless charges against Fairchild and Holmes in order to induce them to provide damaging and incriminating evidence against him, he does not allege in support of this ground that their evidence against him was false. Without such an allegation, any proven pretrial prosecutorial misconduct directed against these men is harmless error beyond a reasonable doubt.

To the extent Petitioner does contend elsewhere that Fairchild and Holmes provided false evidence against him, he has not shown that they testified falsely at his trial on any historical facts material to Counts III and IV. The Court rejects Wiley Fairchild's testimony at the § 2255 evidentiary hearing that his trial testimony on material historical facts was false. Finally, even if Petitioner had proven the falsity of Fairchild's and Holmes' trial testimony, there is no evidence whatsoever that the government knew it was false.

[27] The Court concludes that the government did not commit prosecutorial misconduct by allowing Wiley Fairchild to testify before the grand jury about the Shows matter. Although Preacher Shows did not obtain a reduction in his son's sentence by paying Holmes to intercede with Petitioner, Wiley Fairchild's *belief* that this event had occurred was relevant to the grand jury's investigation. It was for this reason that he believed that he "could 'deal' with Judge Nixon." (Wiley Fairchild, Nov. 28, 1984, Gr.J.Tr. at p. 24, ll. 18–19).[18]

[28] Moreover, during the government's direct examination of Wiley Fairchild at Petitioner's trial, the government did not elicit any testimony about the Shows matter. The Shows matter had no bearing whatsoever on whether Petitioner perjured himself in his testimony before the grand jury. Thus, any prosecutorial misconduct during the grand jury proceeding regarding the Shows matter, which the Court does not find, would have constituted harmless error beyond a reasonable doubt.[19]

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[17] Because Stocks and Lewis did not testify at Petitioner's trial, any proven pretrial prosecutorial misconduct directed against them is irrelevant and would constitute harmless error beyond a reasonable doubt.

[18] Apparently, the grand jury later was advised that Petitioner was not the federal judge in Dr. Shows case and that Dr. Shows' motion for reduction of sentence was denied. (*See* Tr.Tr. at pp. 779–780).

[19] On cross-examination of Wiley Fairchild, Petitioner's attorney elicited the substance of Fairchild's grand jury testimony regarding the Shows matter. (Tr.Tr. p. 696, l. 3, through p. 704, l. 4). On redirect-examination, the government elicited that Fairchild's source for this information was Preacher Shows and not the Petitioner. (Tr.Tr. p. 713, l. 19 through p. 716, l. 2). The jury was clearly advised that Petitioner was not the federal judge in Dr. Shows' case and was clearly advised that Dr. Shows' motion for reduction of sentence was denied. (Tr.Tr. p. 704, ll. 1–6). (*See* Tr.Tr. p. 775, l. 18 through p. 776, l. 12, and p. 779, l. 14 through p. 780, l. 18 (Holmes)). The government did not commit any prosecutorial misconduct at Petitioner's trial regarding the Shows matter.

[29] Petitioner charges that the government investigated and prosecuted him in order to retaliate against him for the Petit Bois Island condemnation judgment. Based upon the sequence of events in this case as set forth in Section B above, the Court concludes that Petitioner has not shown such a retaliatory purpose. Rather, Jarvis' allegations and the fact that the royalty conveyance documents were backdated motivated the government to investigate Petitioner. That information, supplemented by the information provided by Wiley Fairchild, Holmes and Ingram motivated the government to prosecute him. Any retaliatory purpose, which the Court does not find, would constitute harmless error beyond a reasonable doubt, because it would have no bearing upon whether Petitioner committed perjury.

For the foregoing reasons, the Court concludes that Petitioner has not established that any prosecutorial misconduct occurred, requiring that his conviction be overturned.

3. Prosecutorial Vindictiveness.

[30, 31] Petitioner cites cases where convictions have been overturned on due process grounds for prosecutorial vindictiveness. However, the prosecutorial vindictiveness theory applies only when the prosecutor acts adversely to the criminal defendant in a pending criminal proceeding in direct response to, and to penalize or retaliate against the defendant for, the defendant's prior exercise and invocation of constitutional or statutory rights during the course of the criminal proceeding. *Thigpen v. Roberts*, 468 U.S. 27, 104 S.Ct. 2916, 82 L.Ed.2d 23 (1984); *United States v. Goodwin*, 457 U.S. 368, 102 S.Ct. 2485, 73 L.Ed.2d 74 (1982); *Bordenkircher v. Hayes*, 434 U.S. 357, 98 S.Ct. 663, 54 L.Ed.2d 604 (1978); *Blackledge v. Perry*, 417 U.S. 21, 94 S.Ct. 2098, 40 L.Ed.2d 628 (1974); *Byrd v. McKaskle*, 733 F.2d 1133 (5th Cir.1984); *United States v. Krezdorn*, 718 F.2d 1360 (5th Cir.1983), *cert. denied*, 465 U.S. 1066, 104 S.Ct. 1416, 79 L.Ed.2d 742 (1984). Petitioner was not a criminal defendant during any of the supposed acts of prosecutorial misconduct alleged in his motion to vacate. He has not identified any constitutional or statutory right which he exercised or invoked as a criminal defendant after his indictment (either before or after his trial) to which the prosecutor responded vindictively. He has not identified any prosecutorial action which was a vindictive response to any prior action of his as a criminal defendant. In sum, the prosecutorial vindictiveness theory is factually unsupported.

4. Bad Faith Prosecution.

Petitioner cites cases where federal courts have enjoined bad faith state criminal prosecutions under *Younger v. Harris*, 401 U.S. 37, 91 S.Ct. 746, 27 L.Ed.2d 669 (1971).[20] Petitioner contends that his prosecution was retaliatory and brought in bad faith within the meaning of the *Younger*-exception cases, because the government prosecuted him in order to retaliate for the Petit Bois Island condemnation judgment. He argues that, if federal courts can enjoin state criminal retaliatory bad faith prosecutions, then federal courts can enjoin similar federal criminal prosecutions and can overturn federal criminal convictions obtained pursuant to retaliatory bad faith prosecutions.

This Court entertains doubts that federal courts can overturn federal criminal convictions based upon challenges to the prosecutorial decisions, unless the defendant proves a selective prosecution equal protection violation. *See Wayte v. United States*, 470 U.S. 598, 607–610, 105 S.Ct. 1524, 1530–1532, 84 L.Ed.2d 547 (1985). Nevertheless, the Court will assume that the Fifth Circuit would conclude that federal courts can overturn federal criminal convictions obtained pursuant to retaliatory bad faith prosecutions. *See Smith v. Meese, Attorney General of the United States*, 821 F.2d 1484, 1490–1493 (11th Cir. 1987); *United States v. Johnson*, 577 F.2d 1304 (5th Cir.1978). However, this Court finds below that Petitioner fails to establish that his prosecution was retaliatory or brought in bad faith.

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[20] Under *Younger*, "abstention is appropriate, where absent bad faith, harassment, or a patently invalid statute, federal jurisdiction has been invoked for the purpose of restraining state criminal proceedings." *Colorado River Water Conservation District v. United States*, 424 U.S. 800, 816, 96 S.Ct. 1236, 1245, 47 L.Ed.2d 483 (1976); *see Younger*, 401 U.S. at 49, 53–54, 91 S.Ct. at 753, 754–755. Thus, as an exception to *Younger* abstention, federal courts can enjoin state criminal bad faith prosecutions. *Smith v. Hightower*, 693 F.2d 359 (5th Cir.1982); *Rowe v. Griffin*, 676 F.2d 524 (11th Cir.1982); *Fitzgerald v. Peek*, 636 F.2d 943 (5th Cir.), *cert. denied*, 452 U.S. 916, 101 S.Ct. 3051, 69 L.Ed.2d 420 (1981). Also, as an exception to *Younger* abstention, "federal courts have the power to enjoin state criminal proceedings that would constitute double jeopardy." *Davis v. Herring*, 800 F.2d 513, 516 (5th Cir.1986); *Showery v. Samaniego*, 814 F.2d 200, 201 n. 5 (5th Cir.1987).

The Fifth Circuit decision of *Wilson v. Thompson*, 593 F.2d 1375 (5th Cir.1979), sets forth a three-step procedure for determining whether a plaintiff has established that a state criminal prosecution of him is retaliatory and brought in bad faith:

> The Court should consider whether the plaintiff[ ] [has] shown, first, that the conduct allegedly retaliated against or sought to be deterred was constitutionally protected, and, second, that the State's bringing of the criminal prosecution was motivated at least in part by a purpose to retaliate for or to deter that conduct. If the Court concludes that the plaintiff[ ] [has] successfully discharged [his] burden of proof on both of these issues, it should then consider a third: whether the State has shown by a preponderance of the evidence that it would have reached the same decision as to whether to prosecute even had the impermissible purpose not been considered.

593 F.2d at 1387 (footnote omitted). *Accord Smith v. Hightower*, 693 F.2d 359, 369 (5th Cir.1982); *Fitzgerald v. Peek*, 636 F.2d 943 (5th Cir.), *cert. denied*, 452 U.S. 916, 101 S.Ct. 3051, 69 L.Ed.2d 420 (1981). Under the *Wilson* three-step procedure, the plaintiff must show that a constitutionally impermissible retaliatory purpose was a motivating factor in the state's decision to prosecute. *Wilson*, 593 F.2d at 1387. The Court should examine the strength of the government's evidence and the seriousness of the criminal charges. *Smith v. Hightower*, 693 F.2d at 369; *Wilson*, 593 F.2d at 1387 n. 22. Strong evidence of criminal violations or evidence of serious criminal violations supports an inference that the prosecutor, in deciding to prosecute, was not influenced by a retaliatory bad faith purpose and instead was fulfilling his duty to bring evidence of criminal activity to the grand jury's attention. *Smith v. Hightower*, 693 F.2d at 369 & n. 25.

[32] Petitioner argues that his conduct in rendering the Petit Bois Island condemnation judgment against the government caused his prosecution. The Court believes that rendering the judgment was conduct constitutionally protected by Article III and by the First Amendment, and concludes that Petitioner satisfies the first *Wilson* step.

[33] However, Petitioner fails to satisfy the second *Wilson* step. He has not shown that the government, in deciding to prosecute him on the gratuity and perjury charges, was motivated in any part by a purpose to retaliate for the Petit Bois Island condemnation judgment. Rather, the government properly investigated his affairs because it had received substantial information that his investments with Wiley Fairchild were corruptly connected to Drew Fairchild's drug case. The government's investigation of Petitioner's affairs uncovered strong evidence that he had committed serious violations of the law and breaches of the public trust by accepting an illegal gratuity and by committing perjury in his grand jury testimony. The government's decision to prosecute Petitioner on the gratuity and perjury charges was motivated and supported by the evidence that had been uncovered during that investigation.

For the foregoing reasons, Petitioner fails to establish that his prosecution was retaliatory or brought in bad faith.

5. Selective Prosecution.

Petitioner contends that the government engaged in impermissible selective prosecution when it prosecuted him in order to retaliate against him for the Petit Bois

Island condemnation judgment. In order to prevail on his claim of selective prosecution, he must establish two requirements, which the Fifth Circuit characterizes as a "heavy burden." *United States v. Jennings,* 724 F.2d 436, 445 (5th Cir.), *cert. denied,* 467 U.S. 1227, 104 S.Ct. 2682, 81 L.Ed.2d 877 (1984).

> First, [defendant] must make a *prima facie* showing that he has been singled out for prosecution although others similarly situated who have committed the same acts have not been prosecuted. Second, having made the first showing, he must then demonstrate that the government's selective prosecution of him has been constitutionally invidious. The showing of invidiousness is made if [defendant] demonstrates that the government's selective prosecution is actuated by constitutionally impermissible motives on its part, such as racial or religious discrimination.

724 F.2d at 445 (citations omitted). *Accord United States v. Ramirez,* 765 F.2d 438, 439–440 (5th Cir.1985), *cert. denied,* 474 U.S. 1063, 106 S.Ct. 812, 88 L.Ed.2d 786 (1986); *United States v. Hoover,* 727 F.2d 387, 389 (5th Cir.1984). "If a defendant meets both these requirements, then the burden shifts to the government to demonstrate a legitimate basis for selecting the defendant for prosecution." *Hoover,* 727 F.2d at 389. Selective prosecution challenges to convictions are equal protection claims. The Equal Protection Clause mandates that the government's decisions to prosecute may not be motivated by discriminatory purpose and may not be " 'deliberately based upon an unjustifiable standard such as race, religion, or other arbitrary classification,' ... including the exercise of protected statutory and constitutional rights." *Wayte v. United States,* 470 U.S. 598, 608, 105 S.Ct. 1524, 1531, 84 L.Ed.2d 547 (1985) (*quoting Bordenkircher v. Hayes,* 434 U.S. 357, 364, 98 S.Ct. 663, 668, 54 L.Ed.2d 604 (1978)).

[34, 35] Petitioner has not shown that he was singled out for prosecution while another similarly situated person was not prosecuted. He has not identified any other public official against whom there was strong evidence of criminal conduct similar to that in this case who was not prosecuted. Moreover, Petitioner has not shown that the government's decision to prosecute him was actuated by constitutionally invidious motives. A prosecutorial decision actuated by a motive to retaliate against an individual for his exercise of his constitutionally protected Article III and First Amendment rights would be constitutionally invidious. *Wayte,* 470 U.S. at 608, 105 S.Ct. at 1531. However, Petitioner has not shown that the government's decision to prosecute him was actuated by a motive to retaliate against him for his exercise of his Article III or First Amendment rights. Rather, the government prosecuted him on the gratuity and perjury charges because there was strong evidence that he had committed those serious crimes.

For the foregoing reasons, Petitioner has not established that the government impermissibly, selectively prosecuted him.

6. Outrageous Government Conduct.

[36] Petitioner contends that the investigatory techniques which the government allegedly employed to obtain evidence against him (bringing untenable charges against potential witnesses, allowing false testimony before the grand jury) and the government's alleged investigatory motive (retaliation against him for his constitutionally protected Article III and First Amendment conduct) were so outrageous as to transcend due process limits of fundamental fairness. The outrageous government conduct theory focuses specifically on government misconduct during the investigatory stages of criminal proceedings. It recognizes that "the conduct of law enforcement authorities" during an investigation may be "sufficiently offensive" so as to offend due process. *Hampton v. United States,* 425 U.S. 484, 497, 96 S.Ct. 1646, 497, 48 L.Ed.2d 113 (1976) (Brennan, J., dissenting); *Id.* at 495 & 495 n. 7, 96 S.Ct. at 1652 & 1653 n. 7 (Powell, J., concurring); *see United States v. Russell,* 411 U.S. 423, 431–432, 93 S.Ct. 1637, 1642–1643, 36 L.Ed.2d 366 (1973). *Accord United States v. Arteaga,* 807 F.2d 424, 426–427 (5th Cir.

1986); *United States v. Arthur Thomas Nixon*, 777 F.2d 958, 963–964 (5th Cir. 1985); *United States v. Nations*, 764 F.2d 1073, 1077 (5th Cir.1985); *United States v. Yater*, 756 F.2d 1058, 1065 (5th Cir.), *cert. denied*, 474 U.S. 901, 106 S.Ct. 225, 88 L.Ed.2d 226 (1985). However, this theory requires proof of "government overinvolvement in the crime charged," "government orchestrated and implemented criminal activity," and the passive involvement of the defendant with the crime. *Nations*, 764 F.2d at 1077; *Yater*, 756 F.2d at 1065–1066. Petitioner's allegations of improper investigatory techniques and motives do not speak to or implicate these elements of the outrageous government conduct theory. *Cf.* Section G above (Perjury Trap). He has failed to show entitlement to relief on this basis.

For all the foregoing reasons, Petitioner's fifth ground for relief is without merit.

I. *Conclusion.*

As stated at the beginning of this opinion, this is not a typical § 2255 proceeding. In lieu of the standard claims generally asserted in such cases, Petitioner alleges that he was victimized by egregious forms of prosecutorial misconduct.[21] No court could treat such charges lightly and the length of this decision is some indication of this Court's attempt to fully consider every contention.

Setting aside all legal jargon, the convictions before this Court are based on a simple set of facts:

Acting on information supplied by an informant, the government convened a special grand jury for the purpose of determining whether the Petitioner (and others) acted improperly regarding Drew Fairchild's drug case. Petitioner voluntarily appeared before that grand jury. He denied discussing the case with Prosecutor Holmes and denied having anything to do with it or trying to influence anyone with respect to it. Subsequently, he was charged with certain violations of the law, including two counts of perjury with respect to these denials. He was found guilty by a jury of the two perjury counts arising from such denials.

In conducting these post-conviction proceedings, this Court did not retry the issue of guilt. That question was for the jury. This Court's duty was to determine whether the pre-trial or the trial processes were so flawed that, under the law, Petitioner's convictions should be set aside. This Court does not so find. Petitioner's motion for relief under 28 U.S.C. § 2255 (as amended) is without merit. Accordingly, the motion is denied on its merits.

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[21] Some of Petitioner's arguments are exaggerated. For example, the statements that Wiley Fairchild's admission of perjury "was both moving and deeply disturbing" (Pet. Post-H.Br. at p. 31) and that Fairchild "was lured and stampeded into perjury" (*Id.* at p. 31) are ludicrous! This Court was "deeply disturbed" by Wiley Fairchild's testimony because it was patently clear that truth has become a stranger to him! Another example is counsel's suggestion of impropriety in Reid Weingarten's dealing directly with John Baltar instead of Wiley Fairchild's counsel. At first blush, this contention gets a court's attention. However, after a more complete study of the total picture at that time, it is easy to understand how this arrangement developed. Wiley Fairchild obviously distrusted lawyers and disliked paying fees; Baltar was his buffer, his middle man; Fairchild had used Baltar as his agent in most dealings with third parties. Wiley's plea agreement had been reached and his plea of guilty accepted. Weingarten was the attorney with primary responsibility for this case. Apparently, Barry Hess and Wallace Gunn who then represented Fairchild had no objection to this procedure. Under these circumstances, it is not unusual for a "cooperating" defendant-witness to meet with government representatives without his counsel being present.

Petitioner's brief contained serious accusations of misconduct directed personally against Prosecutor Weingarten: "Headlong determination to trap a federal judge" (Pet. Memo. in Supp. of Mot. to Vac. at p. 5); "Weingarten's overheated investigation" (*Id.* at p. 8); "driving Mr. Fairchild to bear false witness" (*Id.* at p. 31); "a prosecutor who cared only for a conviction, not for the truth" (*Id.* at p. 31). The Court finds these and other similar accusations to be unfounded.

This Court is not so naive as to close its eyes to the attractiveness of a federal judge as a target for overzealous prosecutors, fueled by a gloating media. However, the evidence before this Court has fallen measurably short of proving that Petitioner was so targeted or of proving the type of prosecutorial misconduct required to set aside a jury verdict.

John and Jane DOE, Plaintiffs,

v.

CUTTER LABORATORIES, A DIVISION OF MILES LABORATORY, INC.; and Miles Laboratories, Inc.; Cutter Biological, Inc., a division of Miles Laboratory, Inc., and Miles Laboratories, Inc., Defendants.

Civ. A. No. CA-2-87-0113.

United States District Court,
N.D. Texas,
Amarillo Division.

Feb. 5, 1988.

Plaintiff sued manufacturer of blood derivative products lyophilized plasma and cryoprecipitate in strict products liability and breach of implied warranty of fitness. On defendant's motion to dismiss, the District Court, Mary Lou Robinson, J., held that law of products liability was not to be applied to "human body parts."

Motion granted.

Products Liability ⟹46
Sales ⟹266

Under Texas law, a supplier of the blood derivative products lyophilized plasma and cryoprecipitate was not liable under theories of strict liability and breach of implied warranty of fitness insofar as statutes explicitly exempted "human body parts" from products liability law. V.T.C.A., Civil Practice & Remedies Code §§ 77.001, 77.003; V.T.C.A., Bus. & C. §§ 2.315, 2.316(e).

See publication Words and Phrases for other judicial constructions and definitions.

Jay Harvey, Tom Upchurch, Jr. & Associates, Amarillo, Tex., for plaintiffs.

Thomas C. Riney, Gibson, Ochsner & Adkins, Amarillo, Tex., Duncan Barr, O'Connor, Cohn, Dillon & Barr, San Francisco, Cal., for defendants.

ORDER

MARY LOU ROBINSON, District Judge.

Before the Court is Defendant's Motion To Dismiss Plaintiff's causes of action in strict liability and breach of implied warranty of fitness in the above-styled and enumerated cause. For the following reasons, the Court agrees that these causes of action should be DISMISSED.

Section 77.003 of the Tex.Civ.Prac. & Rem.Code provides as follows:

> (a) A person who donates, obtains, prepares, transplants, injects, transfuses, or transfers a human body part from a living or dead human to another human or a person who assists or participates in that activity is not liable as a result of that activity.
>
> (b) The person remains liable for the person's own negligence.[1]

Section 77.001 of the Tex.Civ.Prac. & Rem.Code defines "human body part" as any tissue, organ, blood or components thereof from a human.[2]

When these statutes [sections 77.001-77.004 Tex.Civ.Prac. & Rem.Code] were originally drafted, the legislative intent was clear that the concept of product liability was not to be applied to "human body

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[1] The Code Construction Act (V.A.C.S. Article 5429b-2) defines "person" as any legal entity; therefore the words "physician, surgeon, hospital, blood bank, tissue bank, or other person or entity" are omitted from the revised law. Revisor's Note.

[2] The source law for Section 77.002 refers to "human tissue, organs, blood and components thereof"; the source law for Section 77.003 contains a substantially identical reference. The term "human body part" is defined here for use in those sections. Revisor's Note.

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Public Integrity Section

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs. No. H85-00012(L)

WALTER L. NIXON, JR.,
Defendant.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 38

ORDER

Defendant Walter L. Nixon, Jr., has filed a motion for reduction of sentence under Rule 35(b) of the Federal Rules of Criminal Procedure. In a jury trial, the defendant was found guilty on two perjury counts and was sentenced by the late Judge James H. Meredith to concurrent terms of five years imprisonment on each of these two counts. Defendant has been incarcerated since March 23, 1988.

This Court has reviewed the following:

1. The entire record of the criminal case, the 2254 proceedings and this motion.

2. The defendant's and government's memoranda concerning this motion.

3. A large volume of letters and other materials requesting an early release of the defendant, furnished by the defendant.

4. An updated presentence report.

This Court can find nothing in all of the above material which indicates any change in the defendant's situation that would not have been anticipated by Judge Meredith at the time of his sentencing of the defendant. The defendant has made a commendable adjustment to being institutionalized. However, this does not justify any modification of the sentences ordered herein.

Accordingly, **IT IS HEREBY ORDERED** that the defendant's motion for reduction of sentence under Rule 35 be and is hereby denied.

John F. Nangle

UNITED STATES DISTRICT JUDGE

Dated: May 19, 1989

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 39

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 89-4127

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
WALTER L. NIXON, JR.,
Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi

(AUGUST 17, 1989)

Before JONES, SMITH and DUHE, Circuit Judges.

EDITH H. JONES, Circuit Judge:

BACKGROUND

Appellant, Judge Walter L. Nixon, Jr. was convicted by a jury on two counts of perjury. His conviction and sentence were affirmed on direct appeal. **United States v. Nixon**, 816 F.2d 1022 (5th Cir.), *reh'g denied*, 827 F.2d 1019 (5th Cir. 1987), *cert. denied*, _____ U.S. _____, 108 S. Ct. 749, 98 L.Ed.2d 762 (1988). Appellant then filed this 28 U.S.C. §2255 petition, requesting a new trial. The habeas court conducted an evidentiary hearing on August 29 and 30, 1988. On December 19, 1988 the court issued a comprehensive and thorough opinion denying Nixon's petition. **Nixon v. United States**, 703 F.Supp. 538 (S.D. Miss. 1988). A detailed factual backdrop for this appeal may be gleaned from the opinions of the habeas court and our prior decision on direct review of the conviction. Hence, we shall not engage in an extensive repetition of the facts or the trial testimony. The district court summarized the events leading to the petitioner's conviction as follows:

> Acting on information supplied by an informant, the government convened a special grand jury for the purpose of determining whether the Petitioner (and others) acted improperly regarding Drew Fairchild's drug case. Petitioner voluntarily appeared before that grand jury. He denied discussing the case with Prosecutor [Bud] Holmes and denied having anything to do with it or trying to influence anyone with respect to it. Subsequently, he was charged with certain violations of the law, including two counts of perjury with respect to these denials.

703 F.Supp. at 572.

Nixon was charged with one count of receiving an illegal gratuity and three perjury counts. The jury acquitted Nixon on the gratuity charge and on one of the perjury counts. His conviction was based on the following grand jury testimony:

Count III

> Q. Did [Bud Holmes] ever discuss the Drew Fairchild case with you?

> A. (Nixon). No, not to the best of my recollection. I think I would recall if he had.

Count IV

> (Nixon). Now, I have had nothing whatsoever officially or unofficially to do with the Drew Fairchild criminal case in federal court or state court. . . I have never handled any part of it, never had a thing to do with it at all and never talked to anyone, state or federal, prosecutor or judge, in any way [to] influence anybody with respect to this case.

One important witness, who testified twice before the grand jury, at Nixon's trial and at the evidentiary hearing, was Wiley Fairchild, a Hattiesburg, Mississippi businessman. Wiley Fairchild had pleaded guilty to giving Nixon an illegal gratuity in return for Nixon's helping Fairchild's son Drew in connection with Drew's drug case. Another witness critical to Nixon's presentation in the § 2255 hearing was John Baltar, who had been an aide to Wiley Fairchild during Fairchild's plea bargaining and the trial of Judge Nixon. The habeas court found neither of these witnesses credible.

On appeal, Nixon's multiple claims for relief have been winnowed down to three. First, Nixon asserts that the government knowingly concealed from him information which could have been used to impeach Wiley Fairchild and in doing so violated **Brady v. Maryland**, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963). Second, Nixon contends that Wiley Fairchild's recantation of some of his trial testimony warranted a new trial. Third, based on facts pertinent to the foregoing arguments, Nixon asserts that the government knowingly presented false testimony at trial. These claims require us to determine whether the district court abused its discretion by not granting Nixon's motion for a new trial.

Wiley Fairchild's role in the prosecution should be briefly recapitulated to clarify the following discussion. Wiley Fairchild testified at Nixon's trial as a government witness, explaining his relationship with the judge that led to the back-dated transfer of oil property interests about the time Drew Fairchild was arrested in a drug conspiracy. Wiley further testified that at some point during Drew's state prosecution, Wiley became convinced that several of the parties were trying to blackmail him. He bitterly complained to Judge Nixon, whom he knew to be a friend of the local prosecutor Bud Holmes. Thereafter, Wiley said, he received a telephone call one evening from Nixon and Holmes which, although brief, reassured him that Drew's case would be favorably resolved. The substance of this telephone call forms the basis for Nixon's conviction on Counts III and IV. Other witnesses who testified concerning this call included Judge Nixon himself, Bud Holmes, Fairchild's lawyer Carroll Ingram, and Holmes's successor District Attorney Glenn White. The latter two witnesses were both informed about the phone call and testified favorably to the prosecution. Our first opinion in this case affirmed Judge Nixon's conviction based largely on the conflict between his testimony and that of Bud Holmes concerning the telephone call to Wiley Fairchild. 816 F.2d at 1026-28. It is also worthwhile to observe that even though Nixon stakes this habeas petition on the critical importance of Wiley Fairchild's testimony regarding the date of the incriminating telephone call, in other court papers he has averred that the precise date was not significant.

BRADY MATERIAL

Brady v. Maryland, supra, established that the prosecution's suppression of "evidence favorable to an accused upon [his] request violates due process where the evidence is material either to guilt or punishment." **Brady**, 373 U.S. at 87-88, 83 S.Ct. at 1196-97. Thus, the rule applies only to impeachment and exculpatory evidence; neutral or inculpatory evidence lies outside its coverage.

The **Brady** rule is designed to prevent miscarriages of justice. Consequently, the discovery of a **Brady** violation does not automatically entitle a defendant to a new trial. Reversible error entitling the defendant to a new trial occurs only when the court determines that there is a reasonable probability that the trial result would have been different. **United States v. Bagley**, 473 U.S. 667, 105 S.Ct. 3375 (1985). Reasonable probability is a probability "sufficient to undermine confidence in the outcome of the trial." **United States v. Weintraub**, 871 F.2d 1257 (5th Cir. 1989). These principles guide our analysis of the alleged **Brady** violations committed at Nixon's trial. Nixon asserts that five pieces of information that would have impeached Wiley Fairchild's adverse testimony were withheld from him.

1. First, he argues that Wiley Fairchild's plea bargain included an undisclosed promise from prosecutor Weingarten to do what he could to help Wiley's son Drew with drug charges which were pending against him.[1] The district court, having reviewed the record, made a factual finding that no such promise had been made to Wiley Fairchild to procure a plea bargain. Nixon must demonstrate that the habeas court's finding was clearly erroneous.

Nixon makes much of a statement by Weingarten at the evidentiary hearing that "someone hearing what I said to [Wiley's lawyer] perhaps could have interpreted my words" as promising to help Drew Fairchild. (emphasis added). This statement, by itself, does little to contradict the finding of the district court that no promise was made. In the overall context of this testimony, Weingarten appears to have been referring to the March

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[1] As the district court found, under the express terms of his plea bargain Fairchild would plead guilty to the gratuity charge; the United States would dismiss the perjury charge against Fairchild, and the United States would make Fairchild's cooperation known to the sentencing judge.

1985 discussions leading up to Drew's federal indictment. Those discussions occurred roughly four months after Wiley effected his plea bargain with the federal prosecutors.

The evidentiary hearing record supports the district court's finding. Weingarten, government attorney Jan Little, and Barry Hess, Wiley's former attorney, all testified that the prosecution's plea bargain with Wiley did not include a promise to help Drew. John Baltar, an assistant to Wiley Fairchild, made contemporaneous notes of the substance of Wiley Fairchild's "informal plea agreement" with the prosecution. Baltar's notes were based on a conversation he had with Wiley's attorney Barry Hess shortly after this agreement was reached. According to Baltar's testimony at the evidentiary hearing, "He [Hess] told me what it [the informal agreement] was and I wrote it down." These notes do not mention any promise to help Drew Fairchild. They reflect only that Weingarten told Hess that if Wiley's cooperation provided more evidence than Weingarten anticipated, or if Weingarten's investigation revealed that Wiley was truly a victim in the oil and gas deal with Nixon, then Weingarten would dismiss the gratuity count against Wiley.

In contrast, Nixon contends that testimony by Wiley Fairchild and Baltar avowing such a promise at the habeas hearing proves that the district court clearly erred. Baltar's testimony on this point is contradicted by his contemporaneous notes.

Furthermore, Baltar signed two conflicting affidavits on this point. In one affidavit, he stated that discussions with the prosecutors seeking leniency for Drew commenced in early 1985 -- after Wiley's plea bargain. The other , later-filed affidavit placed these discussions at the time of the plea bargain agreement. Wiley's constantly vacillating testimony, as all parties agree, had to be treated skeptically by the fact finder, who in this case was the district judge. Moreover, Wiley himself characterized this "promise" to help Drew as simply an "impression" that he formed in his own mind. In short, having carefully reviewed the record, we find no basis to overturn this finding of fact.

2. Nixon also alleges that the prosecution concealed the fact that as part of Drew's plea bargain with the federal government, Weingarten had promised not to make a sentencing recommendation for Drew. It is undisputed that Weingarten informed Hess, then acting as Drew's attorney, that he (Weingarten) would not recommend a specific sentence for Drew if he were to plead guilty. Whether or not this statement constituted a promise or inducement which should have been disclosed under **Brady**,[2/] this information fails the test of

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[2/] Nixon's trial and the relevant sentencing discussions occurred before the advent of Federal Sentencing Guidelines. We assume that the potential impact of the government's recommendation of some sentence, or failure to recommend, has diminished under the new federal sentencing procedures.

materiality for impeachment of Wiley at Nixon's trial. As the district court found, Nixon failed to prove that Drew's lawyer ever informed Wiley about this aspect of Drew's plea bargain. Thus, such a promise would not impinge on Wiley's credibility.

Even if Wiley had been informed of Weingarten's decision not to recommend a sentence for Drew, this evidence was at best cumulative and at worst immaterial to impeaching Wiley's credibility. Nixon's defense counsel was informed well before trial of requests by Drew and Wiley Fairchild that the government prosecute Drew in federal court. Drew had been federally sentenced before Judge Nixon was tried. It thus borders on the incredible to suggest that the defense could have impeached Wiley any more effectively by knowing of Weingarten's decision not to recommend a sentence for Drew than by knowing (a) that the federal government had intervened against Drew's pending state charges and (b) the outcome of Drew's sentencing. Such evidence, if it was material at all, was merely cumulative in its impeachment capability. See **United States v. McKenzie**, 768 F.2d 602, 609 (5th Cir. 1985).

3. Nixon alleges that the decision to prosecute Drew Fairchild in the federal courts was part of an inducement to ensure Wiley's cooperation as a prosecution witness and therefore constitutes **Brady** material. To make his argument, Nixon relies

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on a portion of a March 22, 1985 internal prosecution memorandum regarding Drew reflecting the prosecution's awareness that removing Drew from state proceedings, whose impartiality had been seriously questioned, would naturally relieve Wiley of one source of anxiety. Both Drew's attorney and the federal prosecutors had reason to believe that Drew's state trial would be used as a vehicle for punishing Drew for cooperating with the federal investigations of Holmes, Royals, and Nixon. The internal memorandum lists four considerations in favor of prosecuting Drew federally: (1) Drew was unlikely to receive a fair trial in the state system because certain key state officials were friendly with, and controlled by, Holmes; (2) every other participant in the drug arrest had been prosecuted federally; (3) the United States needed to maintain the cooperative attitude of Drew and Wiley in its investigations and prosecutions of Holmes, Bob Royals, and Nixon, and (4) failure to indict Drew federally could jeopardize these investigations and prosecutions. On the other hand, the prosecutors recognized factors arguing against federal prosecution: indicting Drew federally would benefit Drew by removing him from a biased state judge, and this act might reduce his credibility as a witness; and doing so might blunt the case against Holmes.

We do not believe that the withholding from Nixon of the March 22, 1985 internal prosecution memorandum regarding Drew's federal prosecution constitutes **Brady** error. The government's actions here were not veiled in secrecy. On January 7, 1986, well before Nixon's trial, Weingarten sent Nixon's counsel a letter explaining that Hess, acting as Drew's attorney, had contacted the federal prosecutors asking that Drew be indicted federally, and that this was "one of several factors weighing into the decision to recommend an indictment." Nixon's counsel also possessed documents, including Fairchild's grand jury testimony, indicating Wiley Fairchild's concern about his son's criminal case. Since Nixon knew about the request to prosecute Drew federally and the government's decision to do so, and since Nixon knew or should have known about Wiley's interest in Drew's case, the prosecution was not required to provide the actual contents of the memorandum. See **United States v. Ramirez**, 810 F.2d 1338 (5th Cir. 1987).[3]

4. Nixon is also mistaken in claiming that Exhibit 20, a 1984 internal FBI teletype sent from the Jackson, Mississippi, office to FBI Headquarters, constitutes **Brady** material. The teletype contains two statements attributed to Wiley Fairchild which Nixon claims are favorable and material to his case:

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[3] The district court held that this memo was not discoverable under **Brady** because it represented the government attorneys' work product. We need not discuss this rather dubious conclusion because it is clear that the memorandum contained no information that was concealed from Nixon before trial.

(1) that the phone call from Holmes's farm to Wiley, in which Judge Nixon incriminatingly participated, occurred in December 1982, and (2) that Holmes rather than Nixon placed the call. Wiley's formal proffer of evidence to the government, made almost contemporaneously with the teletypes, does not mention when the call was placed or who placed the call. The district court specifically rejected the evidentiary hearing testimony of Baltar and Wiley that material statements were made during the proffer which were not included in the proffer transcript. Where the court's finding rests on credibility determinations, as it did here, we will not substitute our reading of the evidence for that of the district court.

In any event, the internal FBI teletype does not reflect the actual testimony given by Wiley at the proffer, because the author of the teletype, agent White-Spunner, was not present at the proffer. The teletype represents a third-hand attempt to characterize Wiley's proffer testimony accurately. However, an internal FBI communication made by an agent not present at the event and used to keep the home office apprised of the progress of the case cannot substitute for the actual testimony given at the proffer and cannot be equated with an inconsistent statement made by a witness.

This conclusion is consistent with our recent decision in **United States v. Weintraub**, 871 F.2d 1257 (5th Cir. 1989). In that case the defendant argued that the prosecution concealed the fact that some of witness Emrick's trial testimony was not included in the DEA-6 report summarizing Emrick's pretrial statements. The court noted that the DEA-6 reports are not verbatim accounts of a witness's pretrial statements, but rather are concise summaries of the witness's version of the facts as recorded by the agents. As such, the absence of some of the trial testimony from the report was not necessarily a reflection on the credibility of the witness. By analogy, Agent White-Spunner's report does not constitute **Brady** material.

5. The district court found that Weingarten never promised Wiley Fairchild that it would help him obtain a pardon after Nixon's trial. Again, we review this factual finding under the clearly erroneous standard. The district court was entitled to accept Weingarten's testimony that he never promised to help Wiley obtain a pardon. Weingarten did explain the pardon process to someone in the Wiley Fairchild camp, although there is conflicting testimony as to whether or not such a conversation occurred before Nixon's trial. Merely explaining the pardon procedure, however, does not constitute **Brady** evidence. The procedure for obtaining a pardon is published in the Code of Federal Regulations, 28 CFR 1.1, et seq., and is available to any interested person. See **United States v. Burroughs**, 830 F.2d 1574

(11th Cir. 1987); **United States v Drougas**, 748 F.2d 8 (1st Cir. 1984).

The district court had ample justification for doubting the credibility of Baltar and Wiley on this issue. Baltar testified at the evidentiary hearing that Wiley never talked directly to Weingarten about a pardon, but that such conversations were held between Baltar and Weingarten. Baltar's two affidavits conflict as to whether Baltar discussed the possibility of a pardon before or after Nixon's trial. In contrast, Wiley testified that he discussed the possibility of a pardon with Weingarten in Baltar's presence. Additionally, although Wiley initially testified that Weingarten promised to help with the pardon, on cross-examination Wiley testified that Weingarten had never made a specific promise to help; rather, Wiley had again merely formed such an impression in his mind. Such "impressions" are not **Brady** material. See **United States v. Baskes**, 649 F.2d 471, 476-77 (7th Cir. 1980), cert. denied, 450 U.S. 1000 (1981). The district court's finding was not clearly erroneous.

Recantation of Trial Testimony

Wiley Fairchild testified at the habeas hearing that his trial testimony was erroneous in regard to two matters: whether Carroll Ingram sought him out to put Judge Nixon in an oil and gas investment before or after Drew's drug bust, and whether

Nixon telephoned Wiley from Bud Holmes's farm before or after Holmes passed Drew's state case "to the files", in an attempt to kill it. At trial, he swore that Ingram approached him after the drug bust and Judge Nixon called him before the case was passed to the files. At the habeas hearing, he testified just the opposite. His only explanations for giving allegedly false testimony at trial were that (1) he feared, and therefore wanted to please, prosecutor Weingarten, in order to plea bargain effectively and (2) his brother Rodney refreshed his recollection after trial on the proper chronology.

Motions for new trial based on newly discovered evidence are generally disfavored by the courts and are viewed with caution. **United States v. Adi**, 759 F.2d 404, 407 (5th Cir. 1985). The recanting of prior testimony by a witness is ordinarily met with extreme skepticism. Id. Consequently, the district court's denial of such a motion will only be disturbed for a clear abuse of discretion. **United States v. Vergara**, 714 F.2d 21, 22 (5th Cir. 1983).

According to our general standards, a petitioner's motion for new trial should be granted only if: (1) the new evidence was discovered after trial; (2) the failure to learn of the evidence was not due to petitioner's lack of diligence; (3) the evidence is not merely cumulative or impeaching; (4) the evidence is material; and (5) a new trial would probably produce a new result. **U.S. v. Rodriguez**, 437 F.2d 940 (5th Cir. 1971) (emphasis added). Our decision in **Adi** arguably follows this general standard rather than the "**Larrison rule**" governing motions for new trial based specifically on false testimony. The "**Larrison rule**" requires that: (a) the court is reasonably well satisfied that testimony given by a material witness is false; (b) that without it, the jury _might_ have reached a different conclusion; and (c) that the party seeking the new trial was taken by surprise when the false testimony was given and was unable to meet it for he did not know of the falsity until after trial. **Larrison v. United States**, 24 F.2d 82, 87-88 (7th Cir. 1928) (emphasis in original). _Compare_ **United States v. Adi**, _supra_; with **United States v. Hamilton**, 559 F.2d 1370, 1372-73 n.6 (5th Cir. 1977); **Newman v. United States**, 238 F.2d 861, 862 n.1 (5th Cir. 1956). Nixon contends that **Adi's** standard of "probability" that the false testimony caused a conviction is more demanding than **Larrison's** criterion that it "might" have changed the outcome of the case. We need not address this question, however, because Nixon's motion founders at an earlier point.

The district court analyzed separately the items of allegedly false testimony given by Wiley Fairchild at trial. The court concluded that even if Wiley committed perjury in testifying that Ingram approached him on Judge Nixon's behalf after Drew's drug bust, this testimony was not material to the perjury counts for which Nixon was convicted. The date of the approach bears significantly on whether Nixon accepted an illegal gratuity, a charge against which Judge Nixon prevailed. It has no relevance to whether Judge Nixon discussed Drew's case with Bud Holmes or attempted to influence any person regarding that case. Nixon's brief does not address this reasoning, which we find thoroughly persuasive. Wiley's flip-flop on this tesimony could not have legitimately influenced a jury to acquit Judge Nixon of Counts III and IV.

As for Wiley's vacilliation on the timing of Nixon's telephone call, the district court rejected his attempted recantation and held that Nixon did not prove that Wiley's trial testimony was false. For reasons thoroughly aired in its opinion, the district court simply did not believe that Wiley Fairchild had experienced a mental or moral sunrise sufficient to convince the court of his truthfulness at the habeas hearing as compared with Nixon's trial or Fairchild's second grand jury appearance.

Nixon responds to this conclusion with two arguments. He urges that Wiley's recantation should be regarded as more trustworthy than the usual recantation because it went against his penal interest. He also argues, rather puzzingly, that because Wiley was self-contradictory both at Nixon's trial and at the habeas hearing, the habeas court had no basis for crediting either version of his testimony. We disagree with each of these assertions.

There is no doubt Wiley Fairchild risked indictment for perjury (again) by disavowing in the habeas hearing both his second grand jury and trial testimony. Nixon distinguishes the "disinterestedness" of Wiley's belated "confession" from the lesser credibility of witnesses who might have been threatened or induced into recanting or of codefendants who, after being convicted themselves, have "no more to risk" by coming forward with new testimony. See, e.g **United States v. Metz**, 652 F.2d 478, 480-81 (5th Cir. 1981). This general comparison overlooks, however, the fact that all recanting witnesses risk perjury consequences. It provides no useful guide to analysis of an individual case.

Nixon's second argument glosses over his burden of proof as a petitioner for a new trial. He should have at least "reasonably well satisfied" the court that Wiley testified falsely at trial. See **Newman**, supra, 238 F.2d at 862, n.1. He did not satisfy this standard. To conclude, as the district court did, that Wiley's habeas testimony was incredible is not the same as concluding that his trial testimony must also have been false. The habeas court did not draw the latter conclusion. Likewise, it is illogical to infer that a witness who was "puzzling and inconsistent" both at trial and in his attempted recantation must have lied at trial.[4] The district court's failure to credit Wiley's testimony at the habeas hearing represents a determination which finds support in the record and which we may not lightly overturn.

Even assuming Wiley testified falsely on the timing of Nixon's call, there are many reasons to discount its significance for the perjury convictions. First, Wiley's testimony at trial flip-flopped on the timing and was subject to the jury's scrutiny on this account. Second, the perjury convictions did not depend simply upon a three-way credibility battle among Bud Holmes, Judge Nixon and Fairchild. According to Carroll Ingram, the call occurred before the case was passed to the files. Glenn White reported a conversation with Holmes that confirmed this sequence. Most significantly, the fact of the telephone discussion between Wiley and Judge Nixon was acknowledged even by Judge Nixon, and Wiley has never recanted his description of the substance, which clearly implied that Holmes bowed to a request by Nixon for favorable treatment of Drew. The Count III conviction rests on the fact rather than the timing of the discussion. The Count IV conviction is supported by the testimony of Holmes, Ingram, and White.

---

[4] At trial, Wiley testified that he received Nixon's phone call from Bud Holmes's farm sometime before Drew's case was passed to the files. On cross-examination, Nixon's defense counsel skillfully led him to admit several times that the call came after the case was passed to the files. The government then attempted to rehabilitate him by a disavowal of this admission.

Miscellanecus Arguments

Nixon asserts that the trial court failed to consider the cumulative impact of the **Brady** errors on his opportunity to impeach Wiley Fairchild's testimony. Because we have rejected his substantive **Brady** claims, their "cumulative" impact is irrelevant. He also charges that the government knowingly procured false testimony about the alleged "inducements" to Wiley and about his and Drew's plea bargains. This charge also fails as a result of our rejection of the **Brady** claims.

CONCLUSION

Judge Nixon was not denied a fundamentally fair trial. Wiley Fairchild was vigorously and effectively cross-examined at his trial, and the leniency of Wiley's plea bargain, as well as his interest in his son's case, were thoroughly aired. We are not prepared to overturn the district court's findings and conclusions on **Brady** issues or Wiley's attempt to recant his trial testimony. The court did not abuse its discretion in failing to order a new trial.

AFFIRMED.

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 41

IN THE SENATE OF THE UNITED STATES
Sitting As A Court of Impeachment

In re)
)
IMPEACHMENT OF)
JUDGE WALTER L. NIXON, JR.)

STIPULATION OF FACTS

The House of Representatives, through its Managers and counsel, and Respondent, Judge Walter L. Nixon, Jr., hereby stipulate to the following facts:

1. Walter L. Nixon, Jr., was appointed a United States District Judge for the Southern District of Mississippi in 1968.
2. Judge Nixon was designated Chief Judge of the United States District Court for the Southern District of Mississippi in 1982.
3. As a judge for the U.S. District Court for the Southern District of Mississippi, Judge Nixon heard cases in Biloxi, Hattiesburg, Meridian, Vicksburg and Jackson, Mississippi.
4. On August 29, 1985, Judge Nixon was indicted by a special grand jury sitting in Hattiesburg, Mississippi on one count of accepting an illegal gratuity in violation of 18 U.S.C. Section 201(g), and three counts of making false declarations before the grand jury, in violation of 18 U.S.C. Section 1623.
5. On February 9, 1986, following a two-week trial presided over by Judge James H. Meredith of the Eastern District of Missouri, and after deliberating for 18 hours, a federal petit jury sitting in Hattiesburg, Mississippi unanimously convicted Judge Nixon of two counts of making false declarations before the grand jury, while acquitting him of the illegal gratuity charge and the remaining false declaration charge.

6. On March 31, 1986, Judge Meredith denied post-trial motions for acquittal and a new trial by Judge Nixon.

7. On March 31, 1986, Judge Meredith sentenced Judge Nixon to five years imprisonment on each of the two perjury counts on which he had been convicted, with the sentences to run concurrently.

8. Judge Nixon was released on his own recognizance pending appeal of his convictions.

9. Judge Nixon has been suspended from the practice of law in Mississippi and Louisiana.

10. On April 30, 1987, the Fifth Circuit Court of Appeals affirmed Judge Nixon's criminal convictions, and thereafter denied Judge Nixon's petition for rehearing _en banc_.

11. On January 19, 1988 the United States Supreme Court denied Judge Nixon's petition for a writ of certiorari.

12. On February 11, 1988 the Judicial Council of the Fifth Circuit certified to the Judicial Conference, as provided by 28 U.S.C. Section 372(c)(7)(B), that Judge Nixon had engaged in conduct that might constitute grounds for impeachment.

13. On March 15, 1988, based on the criminal convictions, the Judicial Conference certified and transmitted to the Speaker of the House of Representatives a determination that Judge Nixon's impeachment may be warranted.

14. On March 23, 1988 Judge Nixon began serving his sentence at Eglin Air Force Base Prison Camp in Florida.

15. Judge Nixon relinquished all judicial responsibilities following his indictment in August 1985 and has not heard cases since that date.

16. Judge Nixon has continued to collect his judicial salary, currently $89,500 per year, through the present date.

17. After exhausting his appellate rights, Judge Nixon moved to vacate his criminal conviction and sentence through a petition filed pursuant to 28 U.S.C. Section 2255.

18. An evidentiary hearing on Judge Nixon's motion to vacate his conviction and sentence was held in Jackson, Mississippi on August 29 and 30, 1988.

19. After hearing evidence and argument by the parties, on December 19, 1988 Chief Judge John F. Nangle of the Eastern District of Missouri denied Judge Nixon's motion to vacate his conviction and sentence.

20. Judge Nixon appealed Chief Judge Nangle's December 19, 1988 ruling to the Fifth Circuit Court of Appeals. On August 17, 1989 the Fifth Circuit affirmed the lower court's ruling and declined to grant Judge Nixon a new trial. The time is still running on any further appeal.

21. Judge Nixon has moved for reduction of his sentence. That motion was denied by Chief Judge Nangle on May 19, 1989.

22. On March 17, 1988 a resolution calling for Judge Nixon's impeachment was introduced in the House of Representatives.

23. The impeachment resolution was referred to the Committee on the Judiciary of the House of Representatives, and subsequently to the Subcommittee on Civil and Constitutional Rights for investigation.

24. March 21, 1989, by a vote of 8 to 0, the Subcommittee on Civil and Constitutional Rights voted in favor of H.Res. 87, as amended, containing the three Articles of Impeachment of Judge Nixon currently before the Senate.

25. On April 25, 1989, by a vote of 34 to 0, the Committee on the Judiciary voted in favor of H. Res. 87, as amended, containing the three Articles of Impeachment of Judge Nixon currently before the Senate.

26. On May 16, 1989, by a vote of 417 to 0, the House of Representatives voted in favor of H. Res. 87, as amended, containing the three Articles of Impeachment of Judge Nixon currently before the Senate.

27. In February 1979, Judge Nixon approached Carroll Ingram, who was a friend and a Hattiesburg, Mississippi attorney who appeared before him.

28. In February 1979 when he first discussed with Carroll Ingram the possibility of an investment with Wiley Fairchild, Judge Nixon did not know Mr. Fairchild closely but knew he was in the construction business.

29. Wiley Fairchild selected partial interests in three wells, two in Mississippi and one in Alabama, to convey to Judge Nixon.

30. Wiley Fairchild selected the wells himself, without any discussion or negotiation with Judge Nixon over the specific wells or the price.

31. Judge Nixon contacted Carroll Ingram "a couple of times" in late 1979 to conclude his transaction with Wiley Fairchild, but was told by Mr. Ingram that Wiley Fairchild "is the kind of man you cannot push. He will take his own sweet time."

32. In February or March of 1980, Judge Nixon met with Wiley Fairchild at the office of W.R. Fairchild Construction Co. in Hattiesburg.

33. During his meeting with Judge Nixon in February or March of 1980, Wiley Fairchild told Judge Nixon that he had heard of Judge Nixon, wanted to meet him and that Mr. Ingram had recommended the Judge.

34. According to Judge Nixon, by the end of the meeting he and Wiley Fairchild had tentatively agreed to enter into an investment, with no negotiation over the price or other terms of the investment.

35. In February 1981, draft documents conveying royalty interests in three wells were drawn up at Wiley Fairchild's office by Robert L. "Skip" Jarvis, then a Fairchild employee.

36. The draft conveyances prepared by Mr. Jarvis were dated February 25, 1981.

37. The draft royalty deeds were reviewed by Carroll Ingram, Wiley Fairchild's attorney, and then returned to Mr. Fairchild.

38. The royalty deeds convey to Judge Nixon part of the interests owned by W.R. Fairchild Construction Co., Ltd. in two wells, and part of the interest owned by Fairchild-Windham Exploration Company in the third well.

39. As part of his transaction with Wiley Fairchild, Judge Nixon executed three promissory notes through which he agreed to pay W.R. Fairchild Construction Co. a total of $9500.00 at 10% interest, due and payable by February 25, 1983.

40. On February 20, 1981, during the same period when he was consummating his investment with Wiley Fairchild, Judge Nixon financed another oil investment with a third party by borrowing $10,000 from The Mississippi Bank, repayable within 90 days, at 15 percent interest.

41. Judge Nixon repaid the $9500 to Fairchild Construction Company with interest, but only after receiving royalty payments in greater amounts from Fairchild Construction Company such that he was never out-of-pocket.

42. Judge Nixon repaid much of his $9500 obligation to Fairchild Construction Company in advance of when repayment was due under the terms of the notes.

43. During the period February 1979 through January 1980, Judge Nixon presided over a civil case, The Boam Co., et. al v. Dependable Insurance Co., et al, in which W.R. Fairchild Construction Company was one of 18 parties.

44. Judge Nixon rendered judgments involving other parties in Boam in February 1979.

45. Judge Nixon ruled on a summary judgment motion in Boam affecting Fairchild Construction Company in August 1979.

46. Judge Nixon signed orders approving a pretrial settlement in Boam in September and October 1979, and dismissing Fairchild Construction Company from the case on January 30, 1980.

47. In March 1980 Judge Nixon assumed responsibility over a second case, Seymour V. L&A Contracting Co., et al., in which W.R. Fairchild Construction Company was named as the second of six defendants.

48. All counsel in the Boam and Seymour cases who have been interviewed have agreed that Judge Nixon showed no favoritism toward any party in either case.

49. On August 4, 1980, an airplane with 2,200 pounds of marijuana was seized by federal and local drug enforcement agents at the Hattiesburg Municipal Airport. Arrests were made at the scene and on August 19, 1980 an indictment was returned in federal court against three of the smugglers.

50. Drew Fairchild, Wiley Fairchild's 50 year-old son, was a participant in the smuggling conspiracy but was not prosecuted at that time.

51. Shortly after the indictment of the smugglers, Drew Fairchild and his lawyer, Bill Porter, approached Forrest County District Attorney Paul H. "Bud" Holmes to discuss Drew's legal situation.

52. Mr. Holmes told Mr. Porter to speak with George Phillips, United States Attorney for the Southern District of Mississippi, who was overseeing the federal prosecution of the drug case.

53. As a result of discussions with the U.S. Attorney's Office, on November 19, 1980 Drew Fairchild entered into a "Memorandum of Understanding" under which he agreed to plead guilty to felony charges, pay a $15,000 fine, and receive a sentence of 5 years probation in return for cooperating with the government in the drug case.

54. Drew Fairchild was subsequently debriefed by agents working with the U.S. Attorney's Office, who concluded that Drew was not being completely cooperative.

55. In March 1981 Bill Porter sued Drew Fairchild to collect a $10,000 legal fee in connection with his representation of Drew in the drug case.

56. Approximately one quarter of the fee claimed by Bill Porter was paid by Wiley Fairchild on July 3, 1981, but Mr. Porter complained to Bud Holmes about his inability to collect the full fee from Drew.

57. On August 26, 1981 the Forrest County grand jury returned an indictment against Drew Fairchild and Robert Watkins, the pilot in the drug-smuggling conspiracy.

58. Drew Fairchild was arraigned on September 3, 1981 with his attorney, Bill Porter, present. Mr. Porter demanded the remainder of his $10,000 fee "up front." In order to obtain the money, Wiley Fairchild made his son Drew turn over numerous oil leases owned by Drew. Wiley Fairchild then paid Mr. Porter the remainder of the fee.

59. In December 1981 Robert Watkins was apprehended in Florida and proceedings to extradite Mr. Watkins were initiated.

60. Drew Fairchild's sentencing was scheduled for March 19, 1982, but was delayed due to his back surgery.

61. In May 1982 Robert Watkins failed to appear at a scheduled hearing and his bond was revoked.

62. Drew Fairchild's case was continued through the summer of 1982.

63. In October 1982 Mr. Watkins was apprehended in Florida, and extradition proceedings began again.

64. Drew Fairchild's sentencing was continued again in November 1982 because Mr. Watkins had been apprehended.

65. On December 23, 1982, pursuant to a motion prepared at the direction of Forrest County District Attorney Bud Holmes, Drew Fairchild's drug cases was "passed to the file." As a matter of local practice, this meant that Drew's case was put on the inactive list.

66. Drew and Wiley Fairchild were extremely pleased with the passing of the case to the file and believed that Drew's legal problems were finally at an end. This disposition of the case was not requested nor even anticipated by Drew.

67. In early January 1983, Forrest County Circuit Court Judge Dickie McKenzie took office after defeating the incumbent, Judge Jack Weldy, in an election.

68. Judge McKenzie observed that the Drew Fairchild case had been passed to the file, expressed his concern about what had occurred, and the matter was reported in the local news media.

69. Robert Watkins was returned to Hattiesburg and arraigned on January 26, 1983. On that same date, one month after passing the case to the files, Mr. Holmes reinstated the Drew Fairchild case to the active docket.

70. While at Mr. Holmes' farm, and after speaking with Mr. Holmes about his [Judge Nixon's] meeting earlier that day with Wiley Fairchild, Judge Nixon spoke with Wiley Fairchild on the telephone.

71. In his telephone conversation with Judge Nixon, Wiley Fairchild thanked Judge Nixon for speaking with Mr. Holmes about the handling of Drew Fairchild's case and told Judge Nixon, "I'm satisfied."

72. At his criminal trial Judge Nixon denied that he was in Hattiesburg on May 14, 1982. Judge Nixon testified that he was "positive" that he was in his chambers in Biloxi preparing for an upcoming asbestos case on the afternoon of May 14, 1982.

73. Contrary to his trial testimony, Judge Nixon was in fact in Hattiesburg on May 14, 1982, as established during post-trial proceedings through dental records confirming that the Judge received treatment in Hattiesburg on that date.

74. On November 3, 1983 an anonymous informant telephoned the Federal Bureau of Investigation and suggested that Wiley Fairchild may have conveyed mineral interests to Judge Nixon as a bribe for favorable treatment in Drew Fairchild's drug case.

75. The informant thereafter identified himself as Robert Jarvis, a former employee of Wiley Fairchild and presently an Assistant States' Attorney in Florida.

76. In the spring of 1984 the Public Integrity Section of the Department of Justice, with the assistance of the FBI, commenced an investigation into Judge Nixon's investment with Wiley Fairchild and the handling of the Drew Fairchild drug case.

77. As part of the investigation, an attorney with the Department of Justice and an FBI agent interviewed Judge Nixon in the Judge's chambers in Biloxi, Mississippi on April 19, 1984.

78. The April 19, 1984 interview of Judge Nixon was tape-recorded with Judge Nixon's full consent.

79. Judge Nixon appeared voluntarily before the grand jury and testified under oath on July 18, 1984.

80. Judge Nixon retained counsel prior to his grand jury appearance and was represented by counsel at the time of his testimony.

81. Prior to his July 1984 grand jury testimony Judge Nixon swore to tell the truth, the whole truth, and nothing but the truth.

82. On September 6, 1984, the Hattiesburg grand jury indicted Wiley Fairchild on charges of perjury and paying an illegal gratuity to Judge Nixon. The gratuity count was based upon the royalty payments from Fairchild Construction Company to Judge Nixon.

83. On November 26, 1984 Wiley Fairchild pled guilty to the gratuity charge. The perjury count was dismissed as part of the plea bargain, and in September 1985 Mr. Fairchild was sentenced to two months of incarceration, served at a halfway house in Jackson, Mississippi.

84. In March 1985 Bud Holmes was indicted by the Hattiesburg grand jury on charges of perjury and obstruction of justice that in part alleged he had concealed evidence about the phone call with Wiley Fairchild from Mr. Holmes farm.

85. Bud Holmes' criminal trial began on June 17, 1985. After jury selection Mr. Holmes agreed to plead guilty to a criminal information charging him with contempt, with part of his contemptuous behavior being that he " . . . refused to disclose the substance of the aforementioned telephone call . . . ."

86. The Department of Justice also prosecuted Robert Royals, Drew Fairchild's co-manager at the Hattiesburg airport, who had never been prosecuted by Mississippi authorities. Mr. Royals was indicted by the special federal grand jury, convicted and sentenced to three years imprisonment for his role in the drug-smuggling conspiracy.

STIPULATED AND AGREED TO BY:

The United States House
of Representatives

By
Alan I. Baron
Special Counsel
Peter E. Keith
Assistant Special Counsel

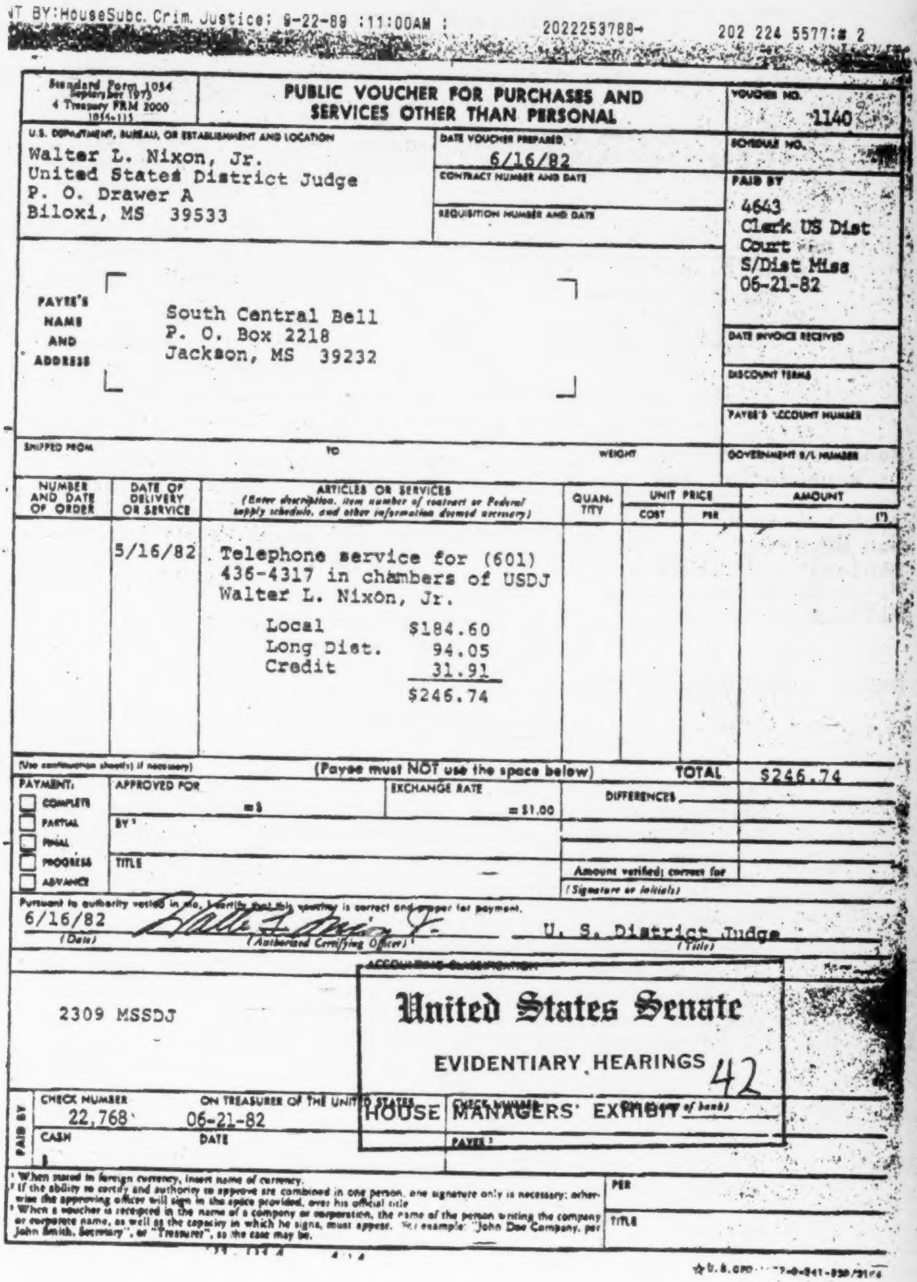
David O. Stewart

David O. Stewart
Peter M. Brody
Ropes & Gray
Counsel for Respondent
Judge Walter L. Nixon, Jr.

Managers of the House of
Representatives

Jack Brooks
Don Edwards
Benjamin L. Cardin
F. James Sensenbrenner
William E. Dannemeyer

Date: September 6, 1989



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Standard Form 1034
September 1973
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1034-115

PUBLIC VOUCHER FOR PURCHASES AND SERVICES OTHER THAN PERSONAL

VOUCHER NO. 1140

U.S. DEPARTMENT, BUREAU, OR ESTABLISHMENT AND LOCATION
Walter L. Nixon, Jr.
United States District Judge
P. O. Drawer A
Biloxi, MS 39533

DATE VOUCHER PREPARED 6/16/82

CONTRACT NUMBER AND DATE

REQUISITION NUMBER AND DATE

SCHEDULE NO.

PAID BY
4643
Clerk US Dist
Court
S/Dist Miss
06-21-82

PAYEE'S NAME AND ADDRESS
South Central Bell
P. O. Box 2218
Jackson, MS 39232

DATE INVOICE RECEIVED

DISCOUNT TERMS

PAYEE'S ACCOUNT NUMBER

SHIPPED FROM TO WEIGHT

GOVERNMENT B/L NUMBER

NUMBER AND DATE OF ORDER	DATE OF DELIVERY OR SERVICE	ARTICLES OR SERVICES (Enter description, item number of contract or Federal supply schedule, and other information deemed necessary)	QUANTITY	UNIT PRICE COST	UNIT PRICE PER	AMOUNT (1)
	5/16/82	Telephone service for (601) 436-4317 in chambers of USDJ Walter L. Nixon, Jr. Local $184.60 Long Dist. 94.05 Credit 31.91 $246.74				

(Use continuation sheet(s) if necessary) (Payee must NOT use the space below) TOTAL $246.74

PAYMENT:
☐ COMPLETE
☐ PARTIAL
☐ FINAL
☐ PROGRESS
☐ ADVANCE

APPROVED FOR =$

EXCHANGE RATE =$1.00

DIFFERENCES

BY 2

TITLE

Amount verified; correct for

(Signature or initials)

Pursuant to authority vested in me, I certify that this voucher is correct and proper for payment.

6/16/82 (Date)

(Authorized Certifying Officer) 2

U. S. District Judge (Title)

ACCOUNTING CLASSIFICATION

2309 MSSDJ

United States Senate

EVIDENTIARY HEARINGS 42

HOUSE MANAGERS' EXHIBIT

PAID BY

CHECK NUMBER 22,768 ON TREASURER OF THE UNITED STATES 06-21-82

CHECK NUMBER ON (Name of bank)

CASH DATE

PAYEE 3

PER

TITLE

1 When stated in foreign currency, insert name of currency.

2 If the ability to certify and authority to approve are combined in one person, one signature only is necessary; otherwise the approving officer will sign in the space provided, over his official title

3 When a voucher is receipted in the name of a company or corporation, the name of the person writing the company or corporate name, as well as the capacity in which he signs, must appear. For example: "John Doe Company, per John Smith, Secretary", or "Treasurer", as the case may be.

☆ U. S. GPO 1977-0-241-030/3174

NO	DATE		TIME		PLACE		AREA	NUMBER	*	MIN	AMOUNT	T
13.	NOV	30	227PM	TO	DUTCH TOWN	LA	504	673-4098	D	1	.58	A
14.	NOV	30	407PM	TO	SEALY	TX	713	885-2911	D	3	1.43	A
15.	DEC	1	900AM	TO	BUFFALO	TX	713	531-4072	D	5	2.27	A
16.	DEC	1	101PM	TO	SHREVEPORT	LA	318	742-1319	D	11	4.48	A

CONTINUED

PLEASE RETURN ENCLOSED CARD WITH YOUR PAYMENT

South Central Bell DEC 04 1982 601 544 1151
BUS 410
DETAIL OF ITEMIZED CALLS 601 544-1154 PAGE 17

NO	DATE		TIME		PLACE		AREA	NUMBER	*	MIN	AMOUNT	T
1.	DEC	1	202PM	TO	BILOXI	MS	601	436-4317	D	2	1.00	B
2.	DEC	1	414PM	TO	DALTON	GA	404	226-4545	D	2	1.01	A
3.	DEC	1	459PM	TO	DALTON	GA	404	226-4545	D	1	.59	A
4.	DEC	2	726AM	TO	SHONGALOO	LA	318	846-2343	N	5	.85	A
5.	DEC	2	606AM	TO	MONTICELLO	FL	904	997-2528	D	4	1.65	A
6.	DEC	2	826AM	TO	BATONROUGE	LA	504	342-7841	D	1	.56	A
7.	DEC	2	849AM	TO	DUTCH TOWN	LA	504	673-4098	D	1	.58	A
8.	DEC	2	901AM	TO	MONTGOMERY	AL	205	832-5461	D	3	1.36	A
9.	DEC	2	1110AM	TO	DUTCH TOWN	LA	504	673-4098	D	8	3.51	A
10.	DEC	2	1142AM	TO	BATONROUGE	LA	504	381-9311	D	1	.58	A
11.	DEC	2	128PM	TO	TOOMSUBA	MS	601	632-9368	D	1	.63	B
12.	DEC	2	130PM	TO	MONTGOMERY	AL	205	832-5461	D	2	.97	A
13.	DEC	2	132PM	TO	TOOMSUBA	MS	601	632-9368	D	1	.63	B
14.	DEC	2	229PM	TO	DESTIN	FL	904	837-2074	D	1	.58	A
15.	DEC	2	257PM	TO	NEWORLEANS	LA	504	561-0500	D	2	.94	A
16.	DEC	3	816AM	TO	AUSTIN	TX	512	327-4071	D	6	2.77	A

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PLEASE RETURN ENCLOSED CARD WITH YOUR PAYMENT

United States Senate
EVIDENTIARY HEARINGS
HOUSE MANAGERS' EXHIBIT 40

South Central Bell

MAY 16 1982

[illegible]
926

U S GOVT
DISTRICT JUDGE
% WALTER NIXON JR
P O DRAWER A
BILOXI MS 39530

BUS 059 008
707
BILOXI 21

LOCAL SERVICE FOR ONE MONTH	184.60	
LONG DISTANCE CALLS EXCLUDING TAX	94.05	
OTHER CHARGES & CREDITS-SEE ENCLOSURE	31.91CR	
TAXES—LOC .00 STA .00 FED .00	.00	
CURRENT CHARGES ARE DUE BY JUN 03		246.74
IF ANY QUESTIONS CALL 1+960-3010 FREE TOTAL DUE		246.74

THANK YOU! IT'S A PLEASURE TO SERVE YOU!

South Central Bell

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                                   MAY 16 1982              601 436 4317
PAGE    1    DETAILS OF LONG DISTANCE CHARGES                   BUS  926

NO  DATE  TIME     PLACE CALLED       AREA NUMBER   T MIN  AMOUNT
 1 12-22 10 11AM BILOXI       MS           436 4317 Y  13    5.95*
                 FM YORK      AL      205  392 5872
 2  4-20  9 28PM BILOXI       MS           388 9149 C   6    3.42#
                 FM EGL LK    MS           279 4563
 3  4-21 11 54AM BILOXI       MS           436 4317 C   4    2.95#
                 FM EGL LK    MS           279 4563
 4  4-21 11 59AM HOUSTON      TX      713  221 9611 C   1    1.64*
                 FM EGL LK    MS           279 4563
 5  4-21 12 18PM JACKSON      MS           960 4292 L   4    3.34#
                 FM EGL LK    MS           279 4563
 6  4-21  1 13PM AUSTIN       TX      512  397 5721 C   4    2.96*
                 FM EGL LK    MS           279 4563
 7  4-21  1 18PM HOUSTON      TX      713  221 9611 C   1    1.64*
                 FM EGL LK    MS           279 4563
 8  4-21  7 48PM OCEAN SPG    MS           875 2082 C  13    5.70#
                 FM EGL LK    MS           279 4563
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THANK YOU! IT'S A PLEASURE TO SERVE YOU!

South Central Bell

MAY 16 1982 601 436 4317

PAGE 2 DETAILS OF LONG DISTANCE CHARGES BUS 926

NO	DATE	TIME	PLACE CALLED		AREA	NUMBER	T	MIN	AMOUNT
1	4-22	6 40AM	OCEAN SPG	MS		875 2082	C	5	2.85#
			FM EGL LK	MS		279 4563			
2	4-22	10 33AM	BILOXI	MS		436 4317	C	4	2.81#
			FM MERIDIA	MS		485 9210			
3	4-22	10 39AM	BILOXI	MS		435 1811	L	5	4.29#
			FM MERIDIA	MS		485 9210			
4	4-22	12 22PM	OCEAN SPG	MS		875 2082	C	5	3.19*
			FM YORK	AL	205	392 5872			
5	4-23	10 06AM	BILOXI	MS		436 4317	C	5	3.19*
			FM YORK	AL	205	392 5872			
6	4-27	8 22AM	GULFPORT	MS		868 1111	L	6	3.10#
			FM OC SPG	MS		875 3322			
7	5-01	11 19PM	OCEAN SPG	MS		875 2082	Y	7	2.83*
			FM SANANT	TX	512	222 1234			
8	5-02	5 43PM	OCEAN SPG	MS		875 2082	C	13	4.51*
			FM SANANT	TX	512	222 1234			

See Reverse

THANK YOU! IT'S A PLEASURE TO SERVE YOU!

South Central Bell

MAY 16 1982 601 436 4317

PAGE 3 DETAILS OF LONG DISTANCE CHARGES BUS 926

NO	DATE	TIME	PLACE CALLED		AREA	NUMBER	T	MIN	AMOUNT
1	5-04	4 37PM	BILOXI	MS		436 4317	C	12	6.40*
			FM SANANT	TX	512	222 1234			
2	5-05	2 32PM	BILOXI	MS		436 4317	C	7	4.25*
			FM SANANT	TX	512	229 1000			
3	5-05	6 04PM	JACKSON	MS		366 3623	C	2	1.68*
			FM SANANT	TX	512	229 1000			
4	5-06	12 30PM	NEWORLEANS	LA	504	529 2492	C	4	2.96*
			FM SANANT	TX	512	229 1000			
5	5-06	1 57PM	NEWORLEANS	LA	504	529 2492	Y	1	2.17*
			FM SANANT	TX	512	229 1000			
6	5-07	5 13PM	JACKSON	MS		956 9875	A	2	.74#
7	5-10	4 24PM	JACKSON	MS		960 4439	A	5	2.62#
8	5-11	7 36PM	JACKSON	MS		366 3623	L	15	7.21#
			FM DC SPG	MS		875 2082			
9	5-14	4 15PM	BILOXI	MS		436 4317	C	2	2.04#
			FM HATSBG	MS		545 2212			

THANK YOU! IT'S A PLEASURE TO SERVE YOU!

South Central Bell

MAY 16 1982 601 436 4317

PAGE 4 DETAILS OF LONG DISTANCE CHARGES BUS 926

NO	DATE	TIME	PLACE CALLED		AREA NUMBER	T	MIN	AMOUNT
1	5-14	5 13PM	OCEAN SPG	MS	875 2082	C	6	2.85#
			FM HATSBG	MS	545 1552			
2	5-16	7 40PM	WIGGINS	MS	928 4782	C	9	3.18#
			FM OC SPG	MS	875 2082			
3	5-17	7 01PM	HATTIESBG	MS	545 7548	L	5	3.58#
			FM OC SPG	MS	875 3322			

LOC TAX .00 STA TAX .00 FED TAX .00

TOTAL LONG DISTANCE EXCLUDING TAX 94.05

THANK YOU! IT'S A PLEASURE TO SERVE YOU!

South Central Bell [redacted]

```
                         MAY 16 1982                601 436 4317
 PAGE    1   DETAIL OF OTHER CHARGES AND CREDITS    BUS  926

                                         PER MONTH     AMOUNT
  CSA                    AMC
 MAY 15 82   SO   C6H1Y004
  KEY SYS 0001
     CHARGE FOR SERVICE PRIOR TO REMOVAL
      FROM APR 16 82 THRU MAY 14 82
 DAD         INTERCOM EQUIPMENT               .65         .65
 DLQ       2 INTERCOM EQUIPMENT             22.70       22.70
     CREDIT FOR SERVICE BILLED BEFORE ADDITIONS
      FROM APR 16 82 THRU MAY 14 82
 ORD         INTERCOM EQUIPMENT              6.00        6.00CR

 MAY 15 82   SO   RATE CHG
     CREDIT FOR SERVICE PRIOR TO INCREASE IN RATE
      FROM APR 17 82 THRU MAY 15 82           .20         .20CR
     CREDIT FOR SERVICE PRIOR TO INCREASE IN RATE
      FROM APR 17 82 THRU MAY 15 82           .20         .20CR
                                                       CONTINUED
```

[redacted] THANK YOU! IT'S A PLEASURE TO SERVE YOU!

21-914 - 89 - 15

South Central Bell

MAY 16 1982 601 436 4317

PAGE 2 DETAIL OF OTHER CHARGES AND CREDITS BUS 926

	PER MONTH	AMOUNT
CSA AMC		
CHARGE FOR SERVICE PRIOR TO DECREASE IN RATES FROM APR 17 82 THRU MAY 15 82	4.00	4.00
CHARGE FOR SERVICE PRIOR TO DECREASE IN RATES FROM APR 17 82 THRU MAY 15 82	2.00	2.00
CREDIT FOR SERVICE PRIOR TO INCREASE IN RATE FROM APR 17 82 THRU MAY 15 82	21.96	21.96CR
CREDIT FOR SERVICE PRIOR TO INCREASE IN RATE FROM APR 17 82 THRU MAY 15 82	9.40	9.40CR
CREDIT FOR SERVICE PRIOR TO INCREASE IN RATE FROM APR 17 82 THRU MAY 15 82	5.55	5.55CR
CHARGE FOR SERVICE PRIOR TO DECREASE IN RATES FROM APR 17 82 THRU MAY 15 82	19.35	19.35
CREDIT FOR SERVICE PRIOR TO INCREASE IN RATE FROM APR 17 82 THRU MAY 15 82	13.00	13.00CR

CONTINUE

THANK YOU! IT'S A PLEASURE TO SERVE YOU!

EXHIBIT
Respondent's
Exhibit 1

Four arrested

Plane-load of marijuana seized at local airport

BY JANET BRASWELL

Four out-of-state men were jailed here early today after state and federal authorities seized an airplane-loaded with an estimated 1,800 pounds of marijuana minutes after it landed at the Hattiesburg Municipal Airport.

Mario Torres, 37, of Palm Beach, Fla., and Malcolm D. Nathan, 44, of Sarasota, Fla., were booked into Regional Jail here for investigation of possession of controlled substance (marijuana), possession with intent to deliver, unlawful importation of marijuana and smuggling marijuana.

Two other men, believed to be part of the "ground crew" for the operation, were arrested several hours later. Both were booked for investigation of conspiracy.

One of these men gave officers a Melrose, Mass., address. The other is from Florida, officers said.

Estimated street value of the 30 bales of pot is $1,140,000.

As of noon today, no local or area persons had been implicated in the smuggling operation.

The plane, a Cessna Titan cargo aircraft, was reportedly stolen from West Palm Beach, Fla., last week.

Information is that the plane was picked up on radar somewhere over Florida late Sunday night and was followed by U.S. Customs agents. The agents reportedly caught up with the alleged smugglers just before they landed here.

Authorities said the Massachusetts man and two others fled the airport on foot when the Customs plane landed.

Information is that these three were the "ground crew" for the operation and were waiting at the airport, located in Palmers Crossing, with a rented truck.

Torres and Nathan were arrested about 1 a.m., apparently without offering resistance.

Today's seizure was the second confiscation of a large amount of pot here in recent months.

On May 16, seven out-of-state men were jailed after local, state and federal authorities confiscated 8.5 tons of marijuana from a tractor-trailer rig.

Driver of the truck had been stopped on U.S. 49 just south of Hattiesburg for a routine traffic violation.

The men were released from jail a week later after pleading guilty to attempted sale of marijuana and paying a total of $400,000 in fines.

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 1

EXHIBIT
Respondent's
Exhibit 2

Bond set for 4 jailed in drug bust

By JANET BRASWELL

Bond was set at $100,000 each Monday afternoon for four men arrested earlier in the day in connection with the seizure of a planeload of marijuana at the Hattiesburg Municipal Airport.

The men entered routine pleas of innocent before a federal magistrate in Biloxi. They are charged with conspiracy to import marijuana.

The four were arrested after U.S. Customs agents followed the airplane from near Jacksonville, Fla., to the airport south of here.

Thirty bales of marijuana, weighing approximately 2200 pounds, were seized when Mario Torres, 37, and Malcolm D. Nathan, 40, were arrested. Torres, a native of Cuba, is from Palm Beach, Fla. Nathan gave a Sarasota, Fla., address.

Several persons, believed by officers to be the "ground crew" for the smuggling operation, fled the airport in a Cadillac, leaving behind a rental truck with its engine running.

Dickey Eddie of the State Bureau of Narcotics said Kenneth R. Hatfield Jr., 31, of Boston, and Charles D. Malone, 57, of Delray, Fla., were arrested several hours later at area motels. They are believed to be among those who eluded officers at the airport.

At the time of their arrest, Torres and Nathan were booked into Regional Jail here for investigation of possession of controlled substance, possession with intent to deliver, unlawful importation of marijuana and smuggling marijuana. Malone was booked for investigation of conspiracy, possession with intent to deliver and unlawful importation. Hatfield was booked for investigation of conspiracy.

Depending on the outcome of the federal charges against the men, Dickey said the state charge of possession with intent to deliver may not be pursued. The federal case could take as long as a year to complete, he said.

Dickey said the four men remained in jail in Biloxi this morning.

He said more arrests can be expected in the case.

All but one of the bales of pot were burned here Monday afternoon. Estimated street value of the marijuana is in excess of $1,000,000.

The plane was reported stolen July 27 at Palm Beach, Fla.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 2

EXHIBIT
Respondent's
Exhibit 3

Agents seize 1,900 pounds of pot

HATTIESBURG (AP) — U.S. Customs agents tailed an airplane from Jacksonville, Fla., to Hattiesburg on Monday, where they arrested two men and confiscated about 1,900 pounds of marijuana after the plane touched down.

Two more men were arrested later at Hattiesburg motels, and all four were taken to Biloxi to be arraigned before a federal magistrate, authorities said.

A rented truck, apparently waiting for the airplane, was found parked in front of a hangar, and several people fled the scene in a Cadillac, agents said.

Arrested shortly after the twin-engine Cessna touched down at the darkened airport were Mario Torres, 37, of Cuba, and Malcolm D. Nathan, 48, of Sarasota, Fla., said Eddie Dickey, south Mississippi area commander for the State Bureau of Narcotics.

Kenneth R. Hatfield Jr., 31, of Boston, and Charles D. Malone, age unknown, from Delray, Fla., were arrested later at motels where they had rented rooms, Dickey said.

Dickey said U.S. Defense Department radar first detected the craft near Jacksonville late Sunday night. Customs agents were notified, and they followed the airplane in their own craft to the Hattiesburg airport, which handles mostly private traffic.

Customs agents "landed right behind them" at the airport which had closed for the night, said Dickey. "There were two people in the aircraft, and at least three on the ground."

Dickey said authorities planned to burn 29 of the 30 bales Monday afternoon. He said the parcels weighed between 60 and 70 pounds each and were wrapped in burlap.

Maps found in the Cessna indicated the flight originated in Colombia, he said.

Authorities said the airplane was reported stolen July 27 at Palm Beach, Fla.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 3

EXHIBIT
Respondent's
Exhibit 4

SUMMONS CIRCUIT COURT

STATE OF MISSISSIPPI
COUNTY OF FORREST

DEFENDANT'S
EXHIBIT
1

Cause No. 3-81-567

FILED
APR 16 1961
Marian Brown
CIRCUIT CLERK

To the Sheriff of FORREST County — Greetings:

We command you to summons DREW FAIRCHILD
W. R. Fairchild Construction Co.
Highway 49 By-Pass
Hattiesburg, Mississippi

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 4

Defendant(s)

if to be found in your County, personally to appear before the CIRCUIT Court of Forrest County, at a term thereof to be begun and holden for the County aforesaid, at the Court House thereof, in the City of Hattiesburg, Mississippi, to be held at 9 A.M. on the FIRST Monday, the 4th day of MAY A.D. 19 81.

then and there to ANSWER TO THE DECLARATION of
WILLIAM F. PORTER

the Plaintiff(s)

against said defendant (s) which was filed at the clerks office of said Court on the 19th day of March 19 81. Herein fail not, and have you then and there this summons with your return endorsed thereon, showing service of this summons together with a copy of the declaration

The defendant(s) is/are hereby notified that he shall plead on or before the first day of the term to which this process is returnable or within thirty (30) days after service of process, whichever would cause the pleading to be filed earlier. A failure to enter a plea within the time stated may permit judgment to be entered by the default.

Attached hereto is a copy of the above by which this suit was instituted.

Witness my hand as Clerk, with the seal of said Court hereunto affixed this the 20th day of March A.D. 19 81.

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

FILED

MAR 1 9 [illegible]

Marian Brown
CIRCUIT CLERK

WILLIAM F. PORTER PLAINTIFF

VS. CAUSE NO. 3-81-567

DREW FAIRCHILD DEFENDANT

DECLARATION

$35.00

COMES NOW the Plaintiff, William F. Porter, by and through his attorney, and brings this, his suit against the Defendant, Drew Fairchild, and for cause of action would show unto the Court the following, to-wit:

I.

That the Plaintiff is an adult resident citizen of Forrest County, Mississippi; that the Defendant, Drew Fairchild, is an adult resident citizen of Forrest County, Mississippi, and may be served with process at W. R. Fairchild Construction Company, Ltd., Highway 49 By-Pass, Hattiesburg, Mississippi, his place of employment, thus vesting jurisdiction over the parties and subject matter hereto.

II.

That heretofore, on the date and for the fair and equitable amount shown on the sworn, itemized statement of account attached hereto as Exhibit "A" and made a part hereof for all purposes, the Plaintiff, at the specific direction and request of the Defendant, furnished to and provided for the Defendant on open account those certain duties and services detailed on Exhibit "A" hereto, for which services the Defendant has become indebted to the Plaintiff.

III.

Despite frequent and amicable demand by the Plaintiff, the Defendant has wholly and obstinately failed, refused, and neg-

Plaintiff would show that there is a principal sum of $10,000.00 now due and owing, together with reasonable attorney fees and all costs of Court herein.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff brings this, his suit against the Defendant, Drew Fairchild, and demands judgment of, from, and against the Defendant in the principal sum of $10,000.00, together with reasonable attorney fees, interest at the legal rate, and all costs of Court accruing herein.

WILLIAM F. PORTER

BY: J. Douglas Johnson
J. DOUGLAS JOHNSON
Attorney for Plaintiff

P. O. Box 1469
Hattiesburg, MS 39401
545-7010

STATE OF MISSISSIPPI

COUNTY OF FORREST

PERSONALLY came and appeared before me, the undersigned authority at law in and for said county and state, WILLIAM F. PORTER, who upon oath deposes and says that the statement of account attached hereto as Exhibit "A" and made a part hereof as if fully copied at length herein is a true and correct statement of the claim and account which William F. Porter has, asserts, and files against Drew Fairchild for $10,000.00; that Affiant has personal knowledge of the correctness of said account and amount claimed is justly due and owing from Drew Fairchild after allowing all proper offsets and credits, and the same now constitutes a subsisting demand and claim for $10,000.00 and that Affiant is duly authorized to make affidavit.

William F. Porter

WILLIAM F. PORTER

SWORN TO and subscribed before me on this, the 19th day of March, A.D., 1981.

Wendy Sue Nobles

NOTARY PUBLIC

My Commission Expires:

May 26, 1982

LAW OFFICE OF
WILLIAM F. PORTER
406 WEST PINE STREET
HATTIESBURG, MISS 39401

P. O. BOX 1469
PHONE: 601-545-70[illegible]

March 19, 1981

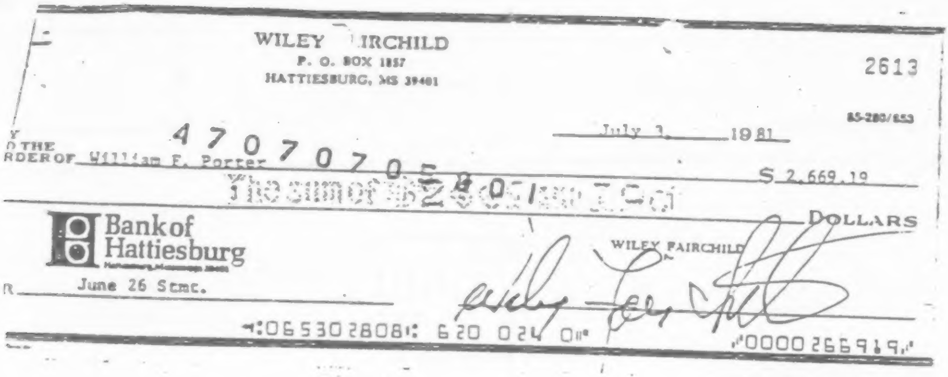
Mr. Drew Fairchild

FOR PROFESSIONAL SERVICES RENDERED

Re: United States of America vs. Drew Fairchild
State of Mississippi vs. Drew Fairchild

Balance from previous statement----------------------$ 10,000.00

EXHIBIT "A"



WILEY IRCHILD
P. O. BOX 1857
HATTIESBURG, MS 39401

2613

85-280/653

July 1, 1981

4707070580

Y
O THE
RDER OF William F. Porter

$ 2,669.19

The sum of [illegible]

DOLLARS

Bank of Hattiesburg

WILEY FAIRCHILD

R June 26 Stmt.

Wiley Fairchild

⑆065302808⑆ 620 024 0⑈ ⑈0000266919⑈

United States Senate

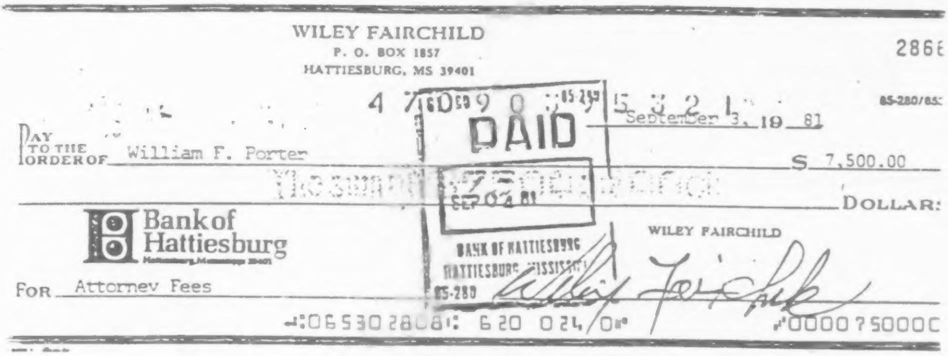
EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 5

DEFENDANT'S EXHIBIT 2

EXHIBIT
Respondent's Exhibit 5

EXHIBIT
Respondent's
Exhibit 6



WILEY FAIRCHILD
P. O. BOX 1857
HATTIESBURG, MS 39401

2868

85-280/85

September 3, 19 81

PAY TO THE ORDER OF William F. Porter $ 7,500.00

[illegible] DOLLARS

PAID
SEP 04 81
BANK OF HATTIESBURG
HATTIESBURG, MISSISSIPPI
85-280

Bank of Hattiesburg
Hattiesburg, Mississippi 39401

WILEY FAIRCHILD

Wiley Fairchild

FOR Attorney Fees

⑆06530280⑆ 620 024/0⑈ ⑈000075000

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 6

DEFENDANT'S
EXHIBIT
3

Memorandum

United [illegible] Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 7

EXHIBIT
Respondent's
Exhibit 7

To : SAC JACKSON (183-0)

Date 7/6/81

From : SA JERRY L. RIPLEY

Subject : UNSUB;
MISCELLANEOUS INFORMATION;
RICO - WHITE COLLAR CRIME
OO:JACKSON

On July 2, 1981, JACK WELDY,CIRCUIT JUDGE, 12th JUDICIAL DISTRICT, Hattiesburg,Ms. contacted the writer and requested to be interviewed regarding certain information he might have of interest to the FBI. Judge Weldy was conatcted at his office at which time he provided the following information:

Judge Weldy stated that he was concerned over District Attorney PAUL H. "BUD" HOLMES not bringing cases to Circuit Court but rather handling these criminal matters in County or City Court after reducing Felonies to Misdemeanors. Judge Weldy advised that most of these incidents concern narcotics violations of which arrests were made by Hattiesburg Police, Forrest County Sheriff's office or Mississippi Bureau of Narcotics. Judge Weldy advised that he is not aware of any Payoff's or kickbacks being made in exchange for these matters being handled in this regard but believes it to be a matter of Plea Bargining. Judge Weldy stated that when "BUD" Holmes took office he came to him(WELDY) and wanted to know if when he had a difficult matter, could he(HOLMES) come to Weldy prior to trial and discuss same with him. Weldy stated that he told Holmes not on any circumstance could he do that because it would be prejudging a case. Judge Weldy advised that since that conversation HOLMES hasnot brought a case to circuit court with but few exceptions.

Judge Weldy stated that HOLMES has got local law enforcement closely aligned to him and that they will do whatever he wants done on an investigation. Weldy stated that Sheriff GENE WALTERS, Forrest County, Chief JOHN QUINCY ADAMS Hattiesburg Police department, Captain RAYMOND HOWELL Detective Bureau, HPD as well as others are very close to the DA. He stated that he is concerned that DEMPSEY LAWLER, Director,HPD may also be obligated to HOLMES.

183-0-43

SEARCHED ____ INDEXED ____
SERIALIZED ____ FILED ____
JUL 7 1981
FBI—JACKSON

Review [illegible]
Bill RAB

South Central Bell MAY 16 1982 601 436 4317

PAGE 3 DETAIL OF OTHER CHARGES AND CREDITS BUS 926

	PER MONTH	AMOUNT
CSA AMC		
CHARGE FOR SERVICE PRIOR TO DECREASE IN RATES FROM APR 17 82 THRU MAY 15 82	.95	.95
CHARGE FOR SERVICE PRIOR TO DECREASE IN RATES FROM APR 17 82 THRU MAY 15 82	2.85	2.85
CREDIT FOR SERVICE PRIOR TO INCREASE IN RATE FROM APR 17 82 THRU MAY 15 82	28.10	28.10CR

TOTAL EXCLUDING TAX 31.91CR

THANK YOU! IT'S A PLEASURE TO SERVE YOU!

183-0
JLR/jlr
2

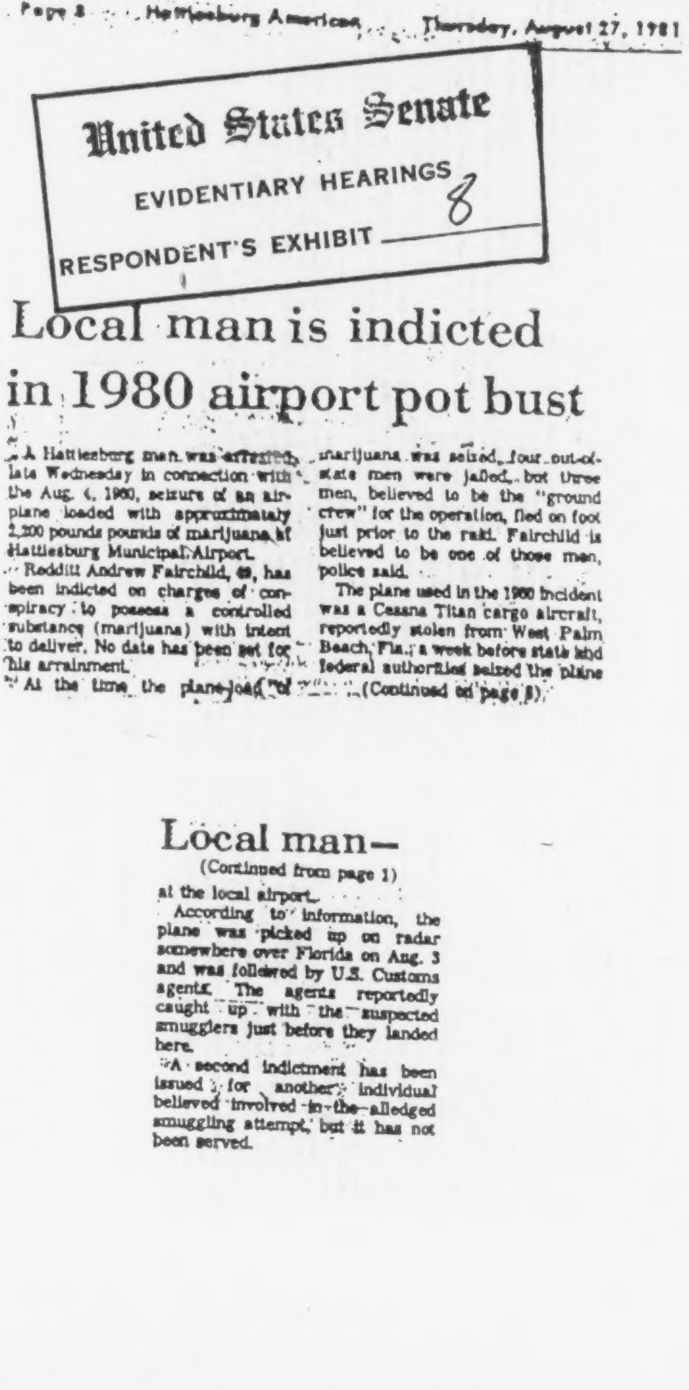
Judge Weldy advised that HOLMES and his Law partner JAMES KELLY DUKES are in control of Politics in the Southern part of the state. In addition DUKES has a brother, BILL DUKES (former SA) practicing law on the Mississippi Gulf Coast who is continually visited by FBI agents which also concerns him. Weldy advised that it is well known that Jim Dukes is a crook. He stated that two years ago the MHSP brought Jim Dukes to trial before him (Weldy) but botched the investigation and he had to exclude the evidence otherwise DUKES would have been convicted. He stated that HOLMES and DUKES are closely associated with T.W. RICHARDSON in gambling in LAS VEGAS and will use Law Enforcement to get them obligated by offering free trips to Las Vegas or to their box at the SUPFR DOME in New Orleans, etc.

Judge Weldy stated in addition that HOLMES gives a party at his ranch once a month for all Law Enforcement people in the area. Weldy stated that he attended one such party with US JUDGE WALTER NIXON and discoverred that these parties are nothing but drinking bouts and therfor he has never gone back.

Judge Weldy advised that he feels very much alone in the criminal justice system of Hattiesburg and he expressed his concern that HOLMES has control of the system. He advised that HOLMES has indicated that he will not seek reelection as District Attorney. Weldy advised that he is going to run his assistant GLEN WHITE who has worked for HOLMES since HOLMES took office. Weldy advised that if that occurs there will be no difference in the way matters will be handled and HOLMES will still have control of the system.

Judge Weldy was apprised that the FBI would do everything necessary to investigate violations of Federal Law and are continually on the alert to bring about convictions of offenders of these laws. Weldy stated that he will continue to watch the activities of the above individuals and would immediately advise of further developments.

EXHIBIT
Respondent's
Exhibit 8



Page 8 Hattiesburg American Thursday, August 27, 1981

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 8

Local man is indicted in 1980 airport pot bust

A Hattiesburg man was arrested late Wednesday in connection with the Aug. 4, 1980, seizure of an airplane loaded with approximately 2,200 pounds pounds of marijuana at Hattiesburg Municipal Airport.

Redditt Andrew Fairchild, 49, has been indicted on charges of conspiracy to possess a controlled substance (marijuana) with intent to deliver. No date has been set for his arraignment.

At the time the plane-load of marijuana was seized, four out-of-state men were jailed, but three men, believed to be the "ground crew" for the operation, fled on foot just prior to the raid. Fairchild is believed to be one of those men, police said.

The plane used in the 1980 incident was a Cessna Titan cargo aircraft, reportedly stolen from West Palm Beach, Fla., a week before state and federal authorities seized the plane

(Continued on page 8)

Local man—

(Continued from page 1)

at the local airport.

According to information, the plane was picked up on radar somewhere over Florida on Aug. 3 and was followed by U.S. Customs agents. The agents reportedly caught up with the suspected smugglers just before they landed here.

A second indictment has been issued for another individual believed involved in the alledged smuggling attempt, but it has not been served.

Charles P. Logan Certified Public Accountant

309 HATTEN BUILDING
GULFPORT, MISSISSIPPI 39501
601-863-2551

EXHIBIT
Respondent's
Exhibit 11

June 25, 1982

Hon. Walter L. Nixon, Jr.
U. S. District Judge
P. O. Drawer A
Biloxi, MS 39530

RE: Annual Financial Disclosure Report

Dear Judge Nixon:

I am enclosing herewith four copies of your Amended FINANCIAL DISCLOSURE REPORT for the calendar year 1981.

The reports should be signed and dated by you on Page 4. Two copies of the report should be mailed to the Judicial Ethics Committee. This address appears on Page 4 of the report. One copy should be delivered to the Clerk of Court for the Southern District of Mississippi.

Yours truly,

Charles P. Logan

CHARLES P. LOGAN
Certified Public Accountant

Enclosure

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 11

DEFENDANT'S EXHIBIT 42

** AMENDED REPORT **

AO Form 10 Rev. 1/82

FINANCIAL DISCLOSURE REPORT

ANNUAL REPORT DUE MAY 15 FROM JUDICIAL OFFICERS AND CERTAIN JUDICIAL EMPLOYEES PER 28 USCA App. I § 301 et seq.

PERSON REPORTING (LAST NAME, FIRST, MIDDLE INITIAL) Nixon, Walter L., Jr.	COURT OR ORGANIZATION U. S. District Court Southern District of Miss.	REPORT DUE DATE 5-15-82
TITLE U. S. District Judge	IF YOU ASSUMED OFFICE DURING THE PAST YEAR, STATE THE DATE OF ENTRY ON DUTY	If Report is for Period other than Calendar Yr., Give Period Below.
HOME OR OFFICE ADDRESS 1204 Iola Road, Ocean Springs, MS 39564		

(X) This report includes information pertaining to my spouse and dependent children, if any. The following symbols may be used where applicable: (J) jointly owned by person reporting and spouse; (S) spouse; and (DC) dependent child. See instructions, page 5.

DO NOT WRITE IN THIS SPACE

Please read the instructions accompanying this form. Sign this form on the reverse side. Attach additional sheets if needed; identifying each attachment by showing your name and the section being continued. Complete all parts. Check the NONE box when you have no information to report. Please type or print clearly.

NON-INVESTMENT INCOME *See Page 7 of instructions.*

SOURCE (and, for Honoraria only, DATE RECEIVED)	TYPE	AMOUNT (yours, not spouse's)
None ☐ Back Judicial Wages (Will v. U.S.)	Back Wages	10,010

II. & III. INVESTMENTS AND TRUSTS: INCOME (II) and VALUE (III)

DESCRIPTION OF ASSETS INCLUDING TRUST ASSETS *See Page 8 of Instructions.*	II. Income (in excess of $100) See Page 11 of Instructions. Type of Income	Income in thousands of dollars (check appropriate block)							III. Value See Page 11 of Instructions. Valuation Method Use Alphabetical Code	Value in thousands of dollars (check appropriate block)					
		up to 1	1+ to 2.5	2.5+ to 5	5+ to 15	15+ to 50	50+ to 100	100+		1+ to 5	5+ to 15	15+ to 50	50+ to 100	100+ to 250	250+
None ☐ Professional Drug Company	Div			X					G				X		
Peoples Bank of Biloxi	NONE								G		X				
Nixon Enterprises, Inc.	NONE								E					X	
Gutierrez & Nixon - Partnership	NONE								D		X				
U.S. Treasury Notes	Int.	X							Sold	X					
Franklin Life Insurance Co.	Int.	X							F		X				
First Ms. National Bank Checking Acct.	NONE								C		X				
Oil & Gas Royalty Interest															
1. W.R. Fairchild Const. Co. LTD	NONE								A		X				
2. Geosouthern Energy Corp.	NONE								A		X				
3. Robert A. Stockett, Jr.	NONE								A		X				

… INVESTMENTS AND TRUSTS: INCOME (II) and VALUE (III) (Cont.)

DESCRIPTION OF ASSETS INCLUDING TRUST ASSETS *See Page 8 of Instructions.*	II. Income *(in excess of $100) See Page 11 of Instructions)*								III. Value *See Page 11 of Instructions*						
	Type of income	Income in thousands of dollars (check appropriate block)							Valuation Method	Value in thousands of dollars (check appropriate block)					
		up to 1	1+ to 2.5	2.5+ to 5	5+ to 15	15+ to 100	50+ to 100	100+	Use Alphabetical Code	up to 5	5+ to 15	15+ to 50	50+ to 100	100+ to 250	250+

-INANCIAL DISCLOSURE REPOR'. ɔnt.)

PERSON REPORTING (' NAME, FIRST, MIDDLE INITIAL)
Nixon, Walter L. Jr.

V. GIFTS *None* ☒

A. Gifts of transportation, lodging, food, or entertainment. *See Page 13 of Instructions.*

SOURCE	DESCRIPTION

B. Other Gifts *See Page 14 of Instructions.*

		VALUE

'. REIMBURSEMENT *See Page 14 of Instructions.*

SOURCE	DESCRIPTION
None ☒	

'I. LIABILITIES *See Page 14 of Instructions.*

DESCRIPTION *(include identity of Payee or Creditor)* *None* ☐	Amount in thousands of dollars 10+ to 15	15+ to 50	100+ to 250	250+
The Mississippi Bank - Promissory Notes		X		
First Mississippi National Bank - Promissory Notes		X		
Nixon Enterprises, Inc. - Promissory Note		X		
Fairchild Construction Company - Promissory Note	X			

/II. TRANSACTIONS *See Page 15 & 16 of Instructions.*

DESCRIPTION *None* ☐	DATE	SALE	PURCHASE	EXCHANGE	Value in thousands of dollars 1+ to 5	5+ to 15	15+ to 50	50+ to 100	100+	250+
U. S. Treasury Notes	4-15-81		X		X					
U. S. Treasury Notes	11-30-81	X			X					
Overriding Royalty Interest										
W.R. Fairchild Const. Co. LTD - Leasee	2-25-81		X			X				
Oil & Gas Working Interest										
Geosouthern Energy Corp. - Leasee	11-06-81		X			X				
Oil & Gas Royalty Interest										
Robert A. Stockett, Jr. - Leasee	2-26-81		X			X				
Oil & Gas Working Interst										
Pattison Petroleum Corp. - Leasee	5-08-81		X			X				

III. POSITIONS *See Page 16 of Instructions*

POSITION	NAME OF ORGANIZATION
None ☒	

AGREEMENTS *See Page 17 of Instructions*

DATES	PARTIES	TERMS
None ☒		

In accordance with the provisions of 28 U.S.C. § 455 and of Advisory Opinion No. 57 of the Advisory ommittee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did ot participate in any litigation during the period covered by this report in which I, my spouse, or dependent ild or children had a financial interest in the outcome of such litigation.

I certify that all information given above is accurate, true, and complete to the best of my knowledge and elief, and that any information not reported was withheld because it met applicable statutory provisions per- nitting non-disclosure.

IGNATURE Walter L. Nixon Jr. DATE June 28, 1982

OTE. Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file this report may be subject to civil and criminal sanctions (28 U.S.C.A. App. 1, § 304 and 18 U.S.C. § 1001).

MAILING
HIS FORM

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PLAINTIFFS

TRANSCONTINENTAL GAS PIPE LINE CORPORATION vs.

Federal Energy Regulatory Commission
Amicus-Curiae
Pltf-Interventor Per Order
3-29-83

DEFENDANTS

MISSISSIPPI STATE OIL AND GAS BOARD
and Joe R. Fancher, Jr., James F. Wood,
E. A. "Baby" Turnage, John B. Burnett
and Reese Senter, Members

COASTAL Exploration, Inc., Deft-Intervenor
(Per Order 11-19-82)

TOMLINSON Interests, Inc., Deft-Intervenor
(Per Order 11-22-82)

GETTY Oil Company, Deft-Intervenor
(Per Order 12-2-82)

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 12

EXHIBIT
Respondent's
Exhibit 12

CAUSE
(CITE THE U.S. CIVIL STATUTE UNDER WHICH THE CASE IS FILED AND WRITE A BRIEF STATEMENT OF CAUSE)

15 USC §§717 et seq;
28 USC 1331, 1332 and 1337: Suit for declaratory judgment and injunction to prevent enforcement of of alleged unlawful rules and orders in violation of Natural Gas Act.
ac

ATTORNEYS

R. Wilson Montjoy, II
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Brunini Grantham Grower & Hewes
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PLAUCHE', HARTLEY, LAPEYRE
& OTTINGER
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(Tomlinson Interests, Inc.)

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	DATE	RECEIPT NUMBER	C.D. NUMBER	CARD	DATE MAILED
				JS-5	
				JS-6	

UNITED STATES DISTRICT COURT DOCKET

DC-111 (Rev. 7/80)

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 9

Hattiesburg American
August 29, 1981

Municipal Airport has been attractive to drug smugglers

By JANET BRASWELL
American Staff Writer

Law enforcement officers say they have "documented evidence" that the Hattiesburg Municipal Airport has been used by smugglers for as long as six years.

"It's been used since at least 1975 as a refueling stop and a meeting place for smugglers," said Jim Kelly, agent in charge of the Hattiesburg district office of the Mississippi Bureau of Narcotics. "There've been a few loads put down there, too," he added.

Illegal smuggling operations at the airport apparently came to an abrupt halt in August of 1980 shortly after then newly elected Mayor Bobby Chain took office. City officials authorized a 24-hour security system at the airport after narcotics agents seized a light plane loaded with a ton of pot there.

Kelly said that those involved in at least three separate smuggling operations using the airport have been prosecuted in other states and-or the statute of limitations has run out, preventing prosecution in Mississippi.

"A large group was operating at the airport in 1978 with a local man having a minor role in the operation," Kelly said. "They were eventually busted (arrested) in Alabama with 17,000 pounds of marijuana in a DC4 airplane."

Kelly said local officers videotaped several meetings of alleged smugglers over the last few years, including one in which the participants arrived in three airplanes.

He said a group of smugglers using a DC7 were arrested by agents in North Carolina. Among the personal possessions confiscated at the time was a hand-drawn sketch of the Hattiesburg Municipal Airport.

Roddie Andrew Fairchild, 40, of Hattiesburg and another man were indicted earlier this week by the Forrest County grand jury on a charge of conspiracy to possess a controlled substance (marijuana) with intent to deliver.

The charges stem from a seizure at the airport a little over a year ago of a plane loaded with about 3,200 pounds of pot.

The man indicted along with Fairchild has not been served so his name must remain secret.

Officers said Fairchild is believed to be one of three men who fled the airport on foot just prior to seizure of the plane.

Two out-of-state men were arrested when the plane was raided and two others, believed to be part of the ground crew, were picked up a short time later.

Kelly said three of those men are serving five-year federal penitentiary sentences. They also were fined several thousand dollars apiece, he said.

The plane the smugglers were using had been reported stolen from West Palm Beach, Fla.

Kelly explained that "stealing" planes has become a racket in itself. The smugglers will "rent" a plane for $15,000 or $20,000 and the owner will agree not to report it stolen for a certain length of time, say 36 or 48 hours. If the plane hasn't been returned in that length of time, it is listed as stolen, protecting the owner from any involvement in the smuggling operation.

Planes that have been reported stolen are generally returned to their owners if seized by law enforcement officers, Kelly said.

He said the plane seized here last year was returned and was recently seized again in one of the northern states.

"They have so many stolen planes in Florida, they can't keep track of them," Kelly said.

He said smuggling, which is just entering its annual "season", is booming the real estate market in some areas of the country, especially Florida.

Kelly said a middle-man will go into the distribution area, buy or rent a house and sell the pot in minimum lots of 100 pounds. He said the buyers are usually from out of state to decrease the risk of being caught.

Smugglers even hire lawyers to study state laws to find the most lenient states in which to do their business. They also study local law enforcement set-ups, Kelly said.

Kelly said the smugglers are always changing their methods of operation, making apprehension more difficult.

"They're trying now not to use the larger aircraft," he said. "Especially from runs to Mexico, they're using smaller planes."

"Money and equipment to them is really no object," Kelly said. "Everything they have is much more modern, much better than ours (law enforcement's)."

He said a group busted recently on the Gulf Coast had "thousands of dollars worth of communications equipment."

Kelly said the smugglers who were stopped in Hattiesburg were primarily smuggling marijuana although it appeared one group was dealing in cocaine.

"Cocaine smuggling is much easier than pot," he said. "It's so much smaller and inconspicious."

He said one group of alleged smugglers area officers had been keeping under surveillance packed up and left before officers had any cause to arrest them.

"They were stopped in Mobile and had a lot of smuggling paraphernalia with them," Kelly said, adding that it was legal to possess everything they had.

He said they left a pair of scales in one of the airport hangers.

"The load seized last year was probably one of several that were going to come here. We lucked up and got the first one," Kelly said.

District Attorney Bud Holmes said he thinks smuggling activitiy at the airport was confined to occasional stops rather than every-night activity.

"I would be greatly surprised if there were more than a few isolated cases," Holmes said. "The Mississippi Bureau of Narcotics is too efficient to let that kind of thing go on.

"I have great confidence in them and the Hattiesburg Bureau of Narcotics. Both bureaus work closely with my office," Holmes said.

Shortly after the plane was seized last year, city officials approved 24-hour security system at the airport that provides guards to check all planes landing there at night.

No smuggling operations have been reported at the airport since the security system went into operation.

PENGAD-Bayonne, N.J.
EXHIBIT
Respondent's
Exhibit 9

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 10

Hattiesburg American
January 5, 1982

Drug deal suspect arrested in Texas

By JANET BRASWELL
American Staff Writer

Extradition proceedings have begun in Texas following the arrest of a Florida man wanted here in connection with the seizure 17 months ago of an airplane loaded with marijuana.

Assistant Forrest County District Attorney Glenn White said Robert Watkins was arrested Dec. 29 at the Dallas-Fort Worth airport on an indictment charging him with conspiracy to possess a controlled substance with intent to deliver.

White said Watkins is believed to have been the pilot of a plane that was seized Aug. 4, 1980, after it landed at the Hattiesburg Municipal Airport.

The plane was loaded with approximately 2,200 pounds of marijuana.

Redditt Andrew Fairchild, 49, of Hattiesburg is also charged with conspiracy in connection with the seizure. His case is expected to be handled during the current term of circuit court.

Fairchild was arrested Aug. 26, 1981, on the conspiracy indictment.

The Cessna Titan cargo plane was seized after U.S. Customs agents had followed it from Florida where it had been picked up on radar. It had reportedly been stolen from West Palm Beach, Fla., a week before it was seized here

At the time of the seizure, four out-of-state men were jailed Three men, believed to be the "ground crew" for the operation, fled on foot just prior to the raid. Police said Fairchild is believed to have been one of those men

The extradition proceedings for proceedings for Watkins are expected to take about a month to complete, White said.

PENGAD-Bayonne, N. J.
EXHIBIT
Respondent's
Exhibit 10

DATE	NR.	J82-0531(N)(R)(P) PROCEEDINGS
10-13-82		Complaint, original and six copies, with exhibit A attached, filed.
0-14-82		Summons, original and six copies, copies having attached thereto a copy of complaint and notice, issued and handed US Marshal.
10-18-82		Affidavit of Claude E. Mullendore, Jr., with cert. of service and exhibits, filed.
10-19-82		ORDER: That A. W. Mooney is appointed to serve process in this action pursuant to Rule 4C FRCP, filed and entered OB 1982, Page 3268. (JRC) (copy handed Brunini firm)
10-19-82		ORDER: That James Redpath is appointed to serve process in this action pursuant to Rule 4C FRCP, filed and entered OB 1982, Page 3269. (JRC)(copy handed Brunini firm)
10-19-82		Notice of Hearing for Motion for a Temporary Restraining Order before Judge Walter L. Nixon, Jr., in Hattiesburg, Miss. on 10-20-82, with cert. of service, filed. (Atty. stated motion is incorporated in complaint - not a separate instrument)
10-19-82		Summons directed to Reese Senter, original and one copy, copy having attached thereto a copy of complaint and notice, issued and handed US Marshal.
10-21-82		Notice of Hearing for Motion for Temporary Restraining Order before Judge Dan M. Russell, Jr., on 10-26-82 in Gulfport, Miss., with cert. of service, filed.
10-21-82		Motion of plaintiff for Temporary Restraining Order, with cert. of service, filed. (Notice previously filed.)
10-22-82		Marshal's return on summons directed to Reese Senter, executed, filed.
10-25-82		Return of A.W. Mooney on summons executed as to John B. Burnett, filed.
10-28-82		DEPUTY CLERK SHEET: Hearing on 10-26-82 before Judge Russell in Gulfport on Pltf's Motion for TRO. Action Taken: Granted; Pltf. to post $250,000 c/s bond. Court Reporter - Jan B. Carnon, rec'd and placed on DCSheet Board.
10-28-82		EXHIBIT to Motion for TRO: D-1, filed.
10-28-82		RECUSAL ORDER: Pursuant to 28 USC §455(a), the undersigned is compelled to disqualify himself in the above styled proceeding for the reason that he has a direct financial interest in the subject matter in controversy and must recuse himself in this proceeding, filed and entered OB 1982, Page 3436. WLN Copy mailed attys.
10-28-82		Memo mailed courtroom deputies and attorneys of record with regard to reassignment of case.
10-29-82		Bond on Temporary Restraining Order, in the amount of $250,000, with Seaboard Surety Company as Surety, approved by Bobbie Price, Cheif Deputy, at the direction of Judge Russell, filed. Original placed in safe.
11-1-82		TEMPORARY RESTRAINING ORDER: that the Miss. State Oil and Gas Board and Joe R. Fancher, Jr., James P. Wood, E. A. "Baby" Turnage, John B. Burnett and Reese Senter, its members, and their agents, etc., are restrained from either directly or indirectly seeking to enforce Order No. 409-82 and Statewide Rule 48 of the Miss. State Oil and Gas Board as to gas produced from the Harper Sand Gas Pool of East Morgantown and Greens Creek Fields in Jefferson Davis & Marion Counties, Miss. and said persons are directed to stay the effect of said order and rule as to Pltf. as to gas from pool; provided Pltf. first must give security in the sum of $250,000 for payment of costs and damages as may be incurred by any owner in these fields, bond to be approved by

(continued next page

CIVIL DOCKET CONTINUATION SHEET

[illegible]

PLAINTIFF	DEFENDANT	
Transcontinental Gas Pipe Line Corp.	Miss. State Oil and Gas Board, et al	DOCKET NO. J82-0331(PAGE 2 OF ___ PAGES

DATE	NR.	PROCEEDINGS
cont'n from page 1		
11- 1-82		Court or by Clerk of the Court, this Order shall expire within 10 days after entry. filed and entered OB 1982, pages 3460-3461. (DMR) (copy handed Atty. Stewart, copy mailed other atty.)
11-1-82		Pltf's Motion for Extension of Temporary Restraining Order, Notice of Motion before Judge Russell, on 11-4-82, at 1:30 p.m., in Jackson, with cert. of service, filed. (copy mailed Owen)
11-2-82		Pltf's Notice of Motion for Extension of Temporary Restraining Order before Judge Russell, on 11-5-82, at 9:30 a.m., in Jackson, MS, with cert. of service, filed. (copy handed Owen)
11-5-82		Pltf's Motion for Summary Judgment, Notice of Motion before Judge Russell, on 12-6-82, at 9:00 a.m., in Gulfport, MS, with cert. of service, filed. (copy handed Owen)
11-5-82		DEPUTY CLERK SHEET: Hearing on Motion for extension of TRO before Judge Russell, on 11-5-82, in Jackson, MS; ACTION TAKEN: Extension granted; $250,000.00 c/a bond to be filed. Order to be submitted, filed.
11-5-82		TEMPORARY RESTRAINING ORDER: that the Miss. State Oil and Gas Board, it members, their agents, attorneys, etc., are hereby restrained either or indirectly seeking to enforce Order No.409-82 and Statewide Rule 48 of the Miss. State Oil and Gas Board as to gas produced from the Harper Sand Gas Pool of East Morgantown and Greens Creek Fields in Jefferson Davis and Marion Counties, MS, said Rule and Order are stayed as to gas produced from the said Pool & fields; provided Pltf. gives security in the sum of $250,000.00 for the costs and damages suffered by any owner, such bond to be approved by the Court or the Clerk of the Court; this Order shall expire within 10 days after entry unless further extended by this Court, filed and entered OB 1982, pages 3526-3527. (DMR) (Copy handed Atty. Montjoy, copy mailed)
11-5-82		Bond on Temporary Restraining Order with plaintiff as principal and Seaboard Surety Co. as surety, in the amount of $250,000.00, approved by Chief Deputy Clerk at direction of Judge Dan Russell, filed. Original placed in safe.
1-15-82		Motion of Coastal Exploration, Inc. for Leave to Intervene as a Deft., with attachment and cert. of service, filed. (Agreed to by opposing counsel)
11-19-82		ORDER: that the Motion of Coastal Exploration, Inc. for Leave to Intervene as a deft. is granted and Coastal Exploration is granted leave to intervene, filed and entered OB 1982, pages 3684-3685. (DMR) (copies mailed Attys.)
11-19-82		Motion of Tomlinson Interests, Inc. for Court to Abstain and Dismiss or Stay Pending Outcome of Parallel State Court Action, Notice of Motion before Judge Russell, on 12-6-82, at 9:00 a.m., in Gulfport, MS, with cert. of service, filed.

Rev. 1/75

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF: Transcontinental Gas Pipe Line Corp.

DEFENDANT: State Oil & Gas Board of Miss., et al

DOCKET NO. J82-0531(R)

PAGE 1 OF ____ PAGES

DATE	NR.	PROCEEDINGS
11-19-82		Motion of Tomlinson Interests, Inc. for Leave to Intervene as a Deft., with Exhibit "A" attached and cert. of service, filed. (order being presented)
11-19-82		Motion of Coastal Exploration, Inc. for Court to Abstain and Dismiss or Stay Pending Outcome of Appeal of Parallel State Court Action, Notice of Motion before Judge Russell, on 12-6-82, at 9:00 a.m., in Gulfport, MS, with cert. of service, filed. (copy mailed Cvan)
11-19-82		Exhibits A thru J, to Coastal's Motion to Abstain, filed.
11-19-82		Affidavit of Julius Ridgway, President of Coastal Exploration, Inc., filed.
11-19-82		ANSWER OF COASTAL EXPLORATION, INC., Defendant-Intervener, with cert. of service, filed.
11-22-82		ORDER: That Tomlinson Interests, Inc. is granted leave to intervene in this action as a Deft., filed and entered OB 1982, page 3703. (DMR) (copies mailed Attys. of record)
11-24-82		Transcript of hearing of the State Oil and Gas Board, filed. (3 volumes)(placed in vault)
11-29-82		ANSWER OF TOMLINSON INTERESTS, INC., DEFT-INTERVENER, with cert. of service, filed.
11-29-82		Motion of Getty Oil Company for Leave to Intervene as a Deft., with attachment and cert. of service, filed. (Order being presented)
12-1-82		ORDER: that the parties are granted until 12-10-82 to file with the Court their response memorandums to the Motion for Court to Abstain and Dismiss or Stay Pending Outcome of Appeal of Parallel State Court Action, filed by Coastal Exploration, Inc. et al, and Motion for Summary Judgment, filed by Transcontinental Gas Pipe Line Corp., filed and entered OB 1982, pages 3762-3763. (DMR) (copies mailed)
12-2-82		ORDER: that the Motion of Getty Oil Company for Leave to Intervene as deft. is granted and Getty Oil Co. is granted leave to intervene as a deft., filed and entered OB 1982, page 3772. (DMR) (copies mailed)
12-8-82		ANSWER OF GETTY OIL COMPANY to Complaint for Declaratory Judgment and Injunctive Relief, with cert. of service, filed.
12/13/82		ANSWER and other Defenses of Defts, Mississippi State Oil and Gas Board, and Joe R. Fancher, Jr., James P. Wood, E. A. "Baby" Turnage, John B. Burnett and Reese Senter, with cert. of service, filed.
12-17-82		U. S. Marshal's return showing attached summons executed as to James P. Wood, E.A. Trunage, Joe R. Fancher, Jr., & A. Richard Henderson, unexecuted as to Reese Senter & John B. Burnett, filed. (see docket entry as to service on Reese Senter & John B. Burnett on 10-22-82 & 10-25-82)

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF Transcontinental Gas Pipe Line Corp	DEFENDANT State Oil & Gas Board of Miss., et a	DOCKET NO. J82-0531(PAGE / OF ___ PAGES

DATE	NR.	PROCEEDINGS
1-18-83		Federal Energy Regulatory Commission's Motion for Leave to Participate as Amicus Curiae, Notice of Motion before Judge Russell, at a time as may be designated filed.
1/24/83		Hearing on Pltf's. motion for summary judgment: & Motion of Coastal Exploration t abstain and dismiss or stay pending outcome of parallel state court action. (This motion joined in by Tomlinson & Getty Oil), before Judge Rusell, in Jackson on 1/19/83. ACTION TAKEN: Reserved ruling; additional briefs to be in no later than 1/31, filed.
1-27-83		ORDER: that the motion of the Federal Energy Regulatory Commission for leave to participate in this action as amicus curiae, is granted and the Commission shall be permitted to appear and to present its views to this Court by briefs, arguments and the presentation of evidence, filed and entered OB 1983, page 510. (DMR) (copies mailed)
2-4-83		Court Reporter's Transcript of hearing before Judge Russell, on 10-26-82, in Gulfport, Ms, filed.
2-4-83		Court Reporter's Transcript of hearing before Judge Russell on 1-19-83, in Jackson, MS, filed.
2-7-83		Motion of Federal Energy Regulatory Commission for Leave to Intervene as Pltf, with attachment, Notice of Motion before Judge Russell, on 3-7-83, in Gulfport, MS, with cert. of service, filed. (copy mailed Gwen)
2-16-83		MEMORANDUM OPINION: That deft's Motion to Abstain is denied; order in accordance with this opinion shall be submitted as provided by Local Rules, filed. (Filed in Gulfport and copies mailed by Gwen)
2/28/83		ORDER: that the motions for Court to Abstain & Dismiss or Stay Pending Outcome of Parallel State Court Action is overruled, filed & entered OB 1983, Page 967. DMR (copies mailed to attys.)
2/28/83		Tomlinson Interests, Inc.'s. Opposition to Motion of Federal Energy Regulatory Commission to Intervene as Party Pltf., with Statement in Opposition to Motion attached, cert. of service, filed.
3-17-83		Coastal Exploration, Inc.'s Motion to Dismiss for Lack of Jurisdiction, with attachment, Notice of Motion before Judge Russell, on 4-4-83 at 9:00 a.m., in Gulfport, MS, with cert. of service, filed. (copy placed in Gwen's box)
3-18-83		DEPUTY CLERK SHEET: Hearing on Motion of FERC for leave to intervene as pltf., before Judge Russell, on 3-17-83, in Jackson, MS; ACTION TAKEN: Granted; order to be submitted; counsel to submit short brief, no longer than 10 pages, on Rule 601, within 10 days, filed.
3-22-83		Amended Motion to Dismiss for Lack of Jurisdiction of Coastal Exploration, Inc., with Exhibits "A" & "B" attached, Notice of Motion before Judge Ruscell, on 4-4-83, at 9:00 a.m., in Gulfport, MS, with cert. of service, filed. (copy mailed Gwen)

DC 111A
(Rev. 1/75)

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	
nscontinental Gas Pipe Line	State Oil & Gas Board	DOCKET NO. J83-0331 PAGE 5 OF ___ PAGES

DATE	NR.	PROCEEDINGS
3-29-83		ORDER: that the Federal Energy Regulatory Commission is granted leave to intervene in this case and is hereby made a party to this cause, and the claim accompanying the motion of the Commission is accepted and filed and with like effect as if the Commission had been named as an original party to this cause, filed and entered OB 1983, page 1357. (DMR) (copy mailed Attys)
3-31-83		Deft., Tomilinson Interests, Inc.'s Joinder in Amended Motion to Dismiss for Lack of Jurisdicition filed by Coastal Exploration, Inc., with cert. of service, filed.
4-22-83		Deft's Joinder in Amended Motion to Dismiss for Lack of Jurisdiction, filed by Coastal Exploration, Inc., Notice of Hearing before Judge Russell, on 4-28-83, in Jackson, MS, with cert. of service, filed. (copy mailed Owen)
8-2-84		Suggestion of Automatic Stay by Trustee in Bankruptcy of Tomlinson Interests, et a filed.
12-7-84		Motion of Coastal Exploration to Dismiss with prejudice, with notice of hearing before Judge Lee as soon as counsel can be heard, with exhibits and c/s, filed.
12-21-84		ORDER: that the time for filing a response to the memorandum of Transcontinental in opposition to Coastal's Motion to dismiss on grounds of res judicata in this case shall be extended to 1-3-84, filed and entered OB 1984, page 7818(TSL)copies mailed(dkt'd 1-5-84).
12-21-84		Coastal's motion for add'l time to respond to transcontinental's memorandum in opposition to Coastal's motion to dismiss., filed.
12-21-84		Response of FERC in opposition to motion to dismiss, with c/s, filed.
10-25-85		SCHEDULING ORDER: That joinder of other parties or amendments to the pleadings be accomplished on or before 11-29-85; that any motions be filed & noticed on or before 12-30-85; that all discovery shall be completed by all parties on or before 11-29-85, filed & entered OB 1985, Page 6899. (JRC) (counsel notified by Mag. Countiss' Office) Dkt'd 10-30-85
7-16-86		Stipulation of dismissal, filed.
7-16-86		J. S. 6 CARD

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
OCT 13 1982
CLARENCE A. PIERCE, CLERK
BY S. Cantes DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

TRANSCONTINENTAL GAS PIPE LINE CORPORATION PLAINTIFF

VS. CIVIL ACTION NO. J82-0531(N)

MISSISSIPPI STATE OIL AND GAS BOARD,
AND JOE R. FANCHER, JR., JAMES P. WOOD,
E. A. "BEBY" TURNAGE, JOHN B. BURNETT
AND REESE SENTER, MEMBERS DEFENDANTS

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

INTRODUCTION

1. This complaint seeks declaratory and injunctive relief because of the unlawful exercise of jurisdiction by the Defendant, Mississippi State Oil and Gas Board (Board), over the activities of Plaintiff, Transcontinental Gas Pipe Line Corporation (Transco), a natural gas company under the Natural Gas Act (NGA) and the Natural Gas Policy Act of 1978 (NGPA). Plaintiff seeks a declaratory judgment that the attempted exercise of jurisdiction is unlawful in that it (1) violates provisions of the United States Constitution, i.e., Article VI, Clause 3 (Supremacy Clause), Article I, Section VIII, Clause 3 (Commerce Clause), Article I, Section X, Clause 1 (Contract Clause) and

Amendment XIV (impairment of contract and deprivation of property); (2) has been preempted by pervasive federal regulation over natural gas companies; and (3) is beyond the authority of the Board as granted to it by the Mississippi legislature. Plaintiff seeks a temporary restraining order (TRO) and a preliminary and permanent injunction ordering that Defendants be restrained from (1) proceeding further with or attempting to enforce the Board's Order No. 409-82 in its Docket Nos. 287-82-418 and 287-82-467 in which jurisdiction over Transco's purchase of natural gas has been asserted and (2) proceeding further with or attempting to enforce the Board's Statewide Rule 48 against Transco.

JURISDICTION

2. The jurisdiction of this Court is invoked under 28 U.S.C. §§ 1331, 1332 and 1337. The federal question jurisdiction of the Court is invoked in that the matter in controversy arises under the constitution and laws of the United States, more particularly under: (A) Article VI, Clause 2 of the Constitution of the United States, (B) Article I, Section VIII, Clause 3 of the Constitution of the United States, (C) Article I, Section X, Clause 1 of the Constitution of the United States, (D) Amendment XIV to the Constitution of the United States, (E) the Natural Gas Act, 15 U.S.C. §§ 717 et seq., (F) the Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301 et seq., and (G) the rules, regulations and orders duly promulgated by the Federal Energy Regulatory Commission under the aforesaid Acts.

The jurisdiction of the Court is also invoked under 28 U.S.C. § 1332 (diversity of citizenship) in that Plaintiff and Defendants are citizens of different states and the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs.

THE PARTIES

3. Plaintiff is a corporation organized and existing under the laws of Delaware and has its principal place of business in the state of Texas. Plaintiff's primary business is the purchase, transportation and sale of natural gas in interstate commerce. Plaintiff is doing business in the state of Mississippi and is qualified to do business herein.

4. Defendant Mississippi State Oil and Gas Board is an agency of the state of Mississippi organized and empowered pursuant to the Conservation Act of 1948, Miss. Code Ann. §§ 53-1-1 et seq. (1972). Defendant Joe R. Fancher, Jr., is a member and chairman of said board and defendants James R. Wood, E. A. "Baby" Turnage, John B. Burnett and Reese Senter are members thereof. The Board is required under the provisions of Miss. Code Ann. § 53-1-5(a) (1972) to establish its principal office in Jackson, Mississippi, in this District and Division, and each of the foregoing named Defendants maintains an office and performs his official duties at said statutorily designated office. Individual defendants are also residents of the State of Mississippi.

FACTS GIVING RISE TO THIS ACTION

5. In 1938, Congress enacted the Natural Gas Act, 15 U.S.C. §§ 717 et seq., in order to regulate the transportation and sale for resale of natural gas in interstate commerce and natural gas companies engaged in such transportation and sale. Under the NGA the Federal Power Commission (now the Federal Energy Regulatory Commission, or FERC) is the administrative agency designated to regulate all such transactions and companies. Congress thus preempted the field, vesting exclusive federal jurisdiction in FERC over natural gas companies and their purchase, transportation, and sale of natural gas in interstate commerce. Plaintiff, Transco, is a natural gas company under the NGA.

6. Congress subsequently passed the Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301 et seq., expanding federal jurisdiction and regulation to include intrastate sales of natural gas and modifying the jurisdiction of FERC over certain "first sales" of natural gas and producers of said gas. However, the NGPA did not eliminate FERC's exclusive jurisdiction over natural gas companies such as Transco, who purchase gas in Mississippi and other states and transport that gas across state lines for resale. Under the NGA, as amended by NGPA, federal regulation still preempts any state regulation of the purchase, transportation and resale of natural gas by a natural gas company and exclusively regulates the intricate relationship between the

prices paid by natural gas companies for natural gas and the prices charged by those companies for resale of that natural gas.

7. Certain interest owners in gas wells located in Greens Creek and East Morgantown Fields, Marion County, Mississippi, petitioned the Board (Docket Nos. 287-82-418 and 287-82-467) to force Transco to purchase from said working interest owners natural gas which Transco had no contractual obligation to take and to force Transco to purchase said gas under extremely burdensome terms and conditions. Said petitions were based primarily on Statewide Rule 48 of the Board which states:

> Each person now or hereafter engaged in the business of purchasing oil or gas from owners, operators, or producers shall purchase without discrimination in favor of one owner, operator or producer against another in the same common source of supply.

8. Prior to the Board's hearing on this matter, Transco filed a brief with the Board asserting the Board's lack of jurisdiction over Transco to grant the relief requested in said petition. Specifically, Transco asserted that the NGPA had preempted the field as to regulation of pipeline companies in interstate commerce, leaving the Board without jurisdiction to force Transco to purchase gas from working interest owners with which Transco had no contractual agreement or to dictate terms and conditions of said purchase. Further, Transco challenged the jurisdiction of the Board on the ground that its enabling legislation, Miss. Code Ann. §§ 53-1-1 et seq. (Supp. 1982), did

not authorize it to promulgate Rule 48 or to assert jurisdiction over interstate pipeline companies purchasing gas in Mississippi.

9. A hearing before the Board was held on September 14-16, 1982. At that time the Board considered the jurisdictional issues raised by Transco and heard testimony relative to the merits of the petitions.

10. On October 13, 1982, the Board entered its Order No. 409-82 (dated September 16, 1982) asserting its jurisdiction over Transco and its authority to enforce Rule 48 against Transco. The Board further found that Transco had violated Rule 48 and has ordered Transco to "comply with Statewide Rule 48" and to "ratably take and purchase gas without discrimination in favor of one owner, operator or producer against another" from the Harper Sand Gas Pool of Greens Creek and East Morgantown Fields, Marion County, Mississippi. A copy of this order is attached as Exhibit A.

11. The Board has failed and refused to declare what it means by "ratably take" or "purchase without discrimination." Both the Board's Order No. 409-82 and Rule 48 are unconstitutionally vague as men of common intelligence must necessarily guess at its meaning. To be subjected to a penalty for violation of said rule would be a denial of due process.

12. Transco has fully exhausted the administrative remedies available to it to avoid or prevent the assertion of jurisdiction by the Board.

13. The Board, in asserting jurisdiction over Transco and in seeking to enforce Rule 48, has unlawfully invaded the

exclusive regulatory jurisdiction of the FERC over natural gas companies. Further, in seeking to enforce Rule 48 by its Order No. 409-82, the Board has exceeded the statutory authority given it under the Conservation Act of 1948, Miss. Code Ann. §§ 53-1-1 et seq. (1972).

14. Defendants have wholly failed and refused to regulate production from gas wells and to allocate said production among the various producers in gas fields as necessary and required by the Conservation Act of Mississippi. More specifically, Defendants have indicated that they will not change their current practice of allowing all gas wells in Mississippi to produce at their maximum deliverability, despite the acknowledged serious oversupply of gas currently faced by Transco and other interstate pipeline companies. Defendants' refusal to consider reduction and allocation of production from gas wells and its attempt to enforce Statewide Rule 48 by requiring Transco to purchase gas it is not contractually obligated to take will result in immediate, irreparable harm to Transco.

15. Transco is threatened with immediate suit for an injunction by the Board, or upon its default by an interested party, in a Mississippi chancery court if Transco does not comply with the orders of the Board. Transco is also threatened with civil penalities of up to $2500 per day if it does not comply with the orders of the Board.

16. If Transco attempts to comply with the orders of the Board, as interpreted by various producers in these fields, it

faces irreparable harm and potential conflict with regulation of its transportation and resale of said natural gas by the FERC, to wit:

(a) If Transco has to purchase all gas allowed to be produced from the six wells listed in Board Order No. 409-82 it would have to reduce its purchase of natural gas from other fields in Mississippi or from other fields in other states which it is contractually obligated to take. Transco's failure to take this gas from other fields would create additional obligations to pay for said gas, even though not taken, under contractual "take or pay" clauses and could amount to over $21,000,000 annually. Such increased take or pay obligations would add to the negative impact that is affecting Transco's ability to obtain external financial capital.

(b) If Transco were to reduce its takes of gas from other fields in Mississippi in order to comply with Order No. 409-82, it could stand to incur similar requirements to take gas from those fields not under contract at dictated terms and conditions, with the threat of enforcement thereof.

(c) Order No. 409-82 apparently requires Transco to purchase gas which is contractually committed and dedicated to another interstate gas pipeline company.

(d) Transco is subject to the jurisdiction of the FERC for, among other things, approval to charge and collect from its resale customers the cost of gas purchased by it. This is commonly referred to as the purchased gas adjustment (PGA). Attempting to comply with Order No. 409-82, which may be construed to require Transco to purchase quantities of gas it is not contractually obligated to take and to pay prices for said gas unreasonably in excess of its approved resales rates and the current market value of gas, will raise Transco's PGA rates above that presently approved by FERC. Said increase cannot be submitted for approval before May 1, 1983 and, should it not be approved by FERC, could result in a loss to Transco of over $144,000 per day.

(e) Under present market conditions, the increase in the cost of purchased gas and the cost of service effect of additional "take or pay" obligations which would result from attempting to comply with Order No. 409-82 and Statewide Rule 48, as now apparently being interpreted, would cause Transco's resale rates to be less competitive with other natural gas pipelines and would cause Transco's distribution company customers to face increased competition from alternate fuels. These competitive pressures could lead to significant loss of markets by Transco.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays:

A. That, pending preliminary hearing herein, a temporary restraining order (TRO) be issued enjoining the Defendants from enforcing or further prosecuting the Board's Order No. 409-82 and Statewide Rule 48 and specifically enjoining same from seeking to enforce these orders by suits for injunction or penalties in the state courts of Mississippi.

B. That, pending final hearing herein, a preliminary injunction issue enjoining the Defendants from enforcing or further prosecuting its Order No. 409-82 and Statewide Rule 48 and specifically enjoining same from seeking to enforce these orders by suits for injunction or penalties in the state courts of Mississippi.

C. That pending preliminary hearing herein, a TRO be issued directing the Mississippi State Oil and Gas Board to stay the effect of its Order No. 409-82 in Dockets No. 287-82-418 and 287-82-467 to the extent said order is directed to Transco.

D. That, pending final hearing herein, a preliminary injunction issue directing the Mississippi State Oil and Gas Board to stay the effect of its Order No. 409-82 in Dockets No. 287-82-418 and 287-82-467 to the extent said order is directed to Transco.

E. That, upon final hearing and determination, this Court order, adjudge and decree that the action of the Mississippi State Oil and Gas Board in promulgating Order No. 409-82 as directed to Transco, was erroneous and wholly null and void, and declare that the Mississippi State Oil and Gas Board has no jurisdiction over Transco, nor over its purchase of gas for transportation and sale in interstate commerce.

F. That, upon final hearing and determination, this Court order, adjudge and decree that the Defendant, Mississippi State Oil and Gas Board, be perpetually enjoined from further attempted enforcement of Rule 48 against a "natural gas company" under the NGA, as amended by the NGPA.

G. That the Plaintiff have such other and further relief as the court may deem just and proper.

Respectfully submitted,

TRANSCONTINENTAL GAS PIPE LINE CORPORATIO!

By:

OF COUNSEL:

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Houston, Texas 77251

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 13

EXHIBIT
Respondent's
Exhibit 13

Hattiesburg American
November 2, 1982

Drug smuggling suspect arrested

BY JANET BRASWELL
AMERICAN Staff Writer

A man wanted in Forrest County for alleged drug smuggling has been taken into custody for the second time.

Robert Leman Watkins, 45, was arrested Sunday in West Palm Beach, Fla., the sheriff's office reported today.

He is wanted here in connection with the seizure of 30 bales of marijuana from a light plane that landed at the Hattiesburg Municipal Airport on Aug. 4, 1980.

Watkins was picked up last December in Dallas but jumped bond before being extradited to Mississippi.

Four men were jailed when the plane was seized and two others were arrested a short time later. Watkins was believed to have fled in a Cadillac seen speeding from the airport, officers said.

He is believed to have been the pilot of the Cessna Titan aircraft which had been reported stolen from West Palm Beach, they said. The craft had been trailed by Customs agents who notified local law enforcement authorities that the plane apparently was going to land in Hattiesburg.

At the time of the confiscation, officers said the 1,900 pounds of pot had an estimated street value of $1,100,000.

Forrest County authorities today were in contact with Palm Beach County, Fla., officials, beginning the paperwork to extradite Watkins.

It is believed a grand jury indictment charging Watkins with some violation of the state's anti-smuggling laws awaits him on his return to Forrest County. Indictments must remain secret until they have been served on the accused.

—

Hattiesburg police today are investigating reports of stolen automobile parts and clothing.

James Smith told officers a Pioneer stereo radio and a steering wheel were stolen from a wrecked car at Carter's Frame and Axle Shop on 43rd St. Sunday night or early Monday. He said the items are worth $300.

Valerie Bogart reported four pairs of ladies' blue jeans and two towels were stolen from the clothesline behind her home at Christina Apts. Sunday. She estimated her loss at $250.

—

Ronald D. Turnage, 34, of Grants, N.M., is listed in stable condition today at Forrest General Hospital after his motorcycle collided with a car Monday afternoon.

Turnage is being treated for a broken arm, a hospital spokesman said.

The accident occurred about 2 p.m. on W. Seventh St. near N. 25th Ave.

Driver of the car, Wilber Ray Harrison Jr., 25, of Hattiesburg, was not injured.

Turnage was transported to the hospital by AAA Ambulance.

EXHIBIT
Respondent's
Exhibit 14

STATE OF MISSISSIPPI
OFFICE OF THE GOVERNOR
POST OFFICE BOX 139
JACKSON, MISSISSIPPI 39205

WILLIAM F. WINTER
GOVERNOR

December 8, 1982

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 14

Honorable Bob Graham
Governor of Florida
State Capitol
Tallahassee, Florida 32301

RE: Extradition - ROBERT L. WATKINS

Dear Governor Graham:

At the direction of Governor Winter, I am enclosing extradition requisition, agent's commission and supporting documents in the above styled matter.

If you should honor Governor Winter's request, we shall appreciate your forwarding your warrant of rendition, together with our agent's commission, to the authorities of Palm Beach County, Florida, with the request that they notify by collect wire:

Honorable Paul Holmes
District Attorney
Forrest County Courthouse
Post Office Box 207
Hattiesburg, Mississippi 39401

when this subject will be available for release to our agent.

Sincerely,

Sue Evans

Sue Evans
Extradition Secretary

cc: Honorable Paul Holmes
Honorable Steve Wright
Assistant Attorney General

Executive Office

State of Mississippi

Jackson

WILLIAM F. WINTER, *Governor of Said State*

To His Excellency the Governor of the State of

FLORIDA

Whereas, It appears by the annexed copy of an INDICTMENT AND RELATED DOCUMENTS which is hereby certified to be authentic, that ROBERT L. WATKINS stands charged with the crime of CONSPIRACY TO POSSESS MORE THAN ONE (1) KILOGRAM OF MARIJUANA WITH THE INTENT TO DELIVER in the County of FORREST in this State, and it has been represented to me that ROBERT L. WATKINS has fled from the justice of this State and has taken refuge in the State of FLORIDA.

Now, Therefore, pursuant to the provisions of the constitution and Laws of the United States in such case made and provided, I do hereby request that the said ROBERT L. WATKINS be apprehended and delivered to GENE WALTERS &/OR AGENT(S) who is hereby authorized to receive and convey ROBERT L. WATKINS to the State of Mississippi, there to be dealt with according to law.

This State will not be responsible for any expense attending the execution of this requisition for the arrest and delivery of fugitives from justice.

Given Under My Hand, and the Great Seal of the State affixed, at the City of Jackson, this 7th day of December A. D. one thousand nine hundred Eighty-Two, and of the Independence of the United States of America the two hundred and Seventh.

William F. Winter

Governor

By the Governor Edwin Lloyd Pittman

Secretary of State

Executive Office

State of Mississippi

Jackson

WILLIAM F. WINTER, *Governor of the State of Mississippi*

To All to Whom these Presents Shall Come—Greeting:

Know Ye, That I have authorized and empowered, and by these presents do authorize and empower SHERIFF GENE WALTERS &/OR AGENT(S) to take and receive from the proper authorities of the State of FLORIDA, ROBERT L. WATKINS a fugitive from justice, and convey Robert L. Watkins to the said State of Mississippi, there to be dealt with according to law.

(This State will not hold itself responsible for the expenses attending the execution of this requisition)

In Witness Whereof, I have hereunto signed my name and caused the Great Seal of the State of Mississippi to be affixed, at the City of Jackson, this 7th day of December, in the year of our Lord One Thousand Nine Hundred Eighty-Two.

William F. Winter
Governor

By the Governor:

Edwin Lloyd Pittman
Secretary of State

(COMPLETE RETURN ON REVERSE SIDE)

Hattiesburg
American

January 27, 1983

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 16

EXHIBIT
Respondent's
Exhibit 16

Fairchild case returns to active files

The drug smuggling case against Reddett Andrew "Drew" Fairchild was returned to the active files in Forrest County Circuit Court Wednesday after an elusive co-defendant surrendered to local authorities.

Both the 50-year-old Fairchild and Robert Watkins, 45, are charged with conspiracy to possess a controlled substance (marijuana) with intent to deliver. Fairchild has pleaded guilty to the charge and Circuit Judge Dicky McKenzie said he would be sentenced during the March term of court.

The charges are in connection with the confiscation of 2,200 pounds of marijuana at the Hattiesburg Municipal Airport in August, 1980.

During the closing days of the December, 1982, court term Fairchild's case had been passed to the files by then-Judge Jack Weldy. District Attorney Bud Holmes told the court at the time Fairchild had agreed to testify against co-defendant Watkins but Watkins could not be located and brought into court.

"Since we had agreed to allow him (Fairchild) to testify against the co-defendant and since he had identified the co-defendant as Watkins, we did not feel it was fair to sentence him. For that reason the case was passed to the file," Holmes said.

McKenzie reactivated Fairchild's case Wednesday on a motion made by Holmes.

The conspiracy case against the two men dates back to Aug.4, 1980, when a plane loaded with 2,200 pounds of marijuana landed at the local airport.The Cessna Titan cargo plane was siezed by U.S. Customs agents after they allegedly followed it here from Florida.

A little over a year later, Fairchild was arrested on the conspiracy charge. He later identified Watkins as the pilot of the aircraft and law officers began a search that spotted Watkins in California.

In Janurary, 1982, Watkins was arrested in Dallas, Texas, and released on bond. He failed to appear in court for an extradition hearing.

Holmes said he later learned the Watkins had been hospitalized in Texas

PLEASE turn to Page 6,

FAIRCHILD CASE

FROM Page 1

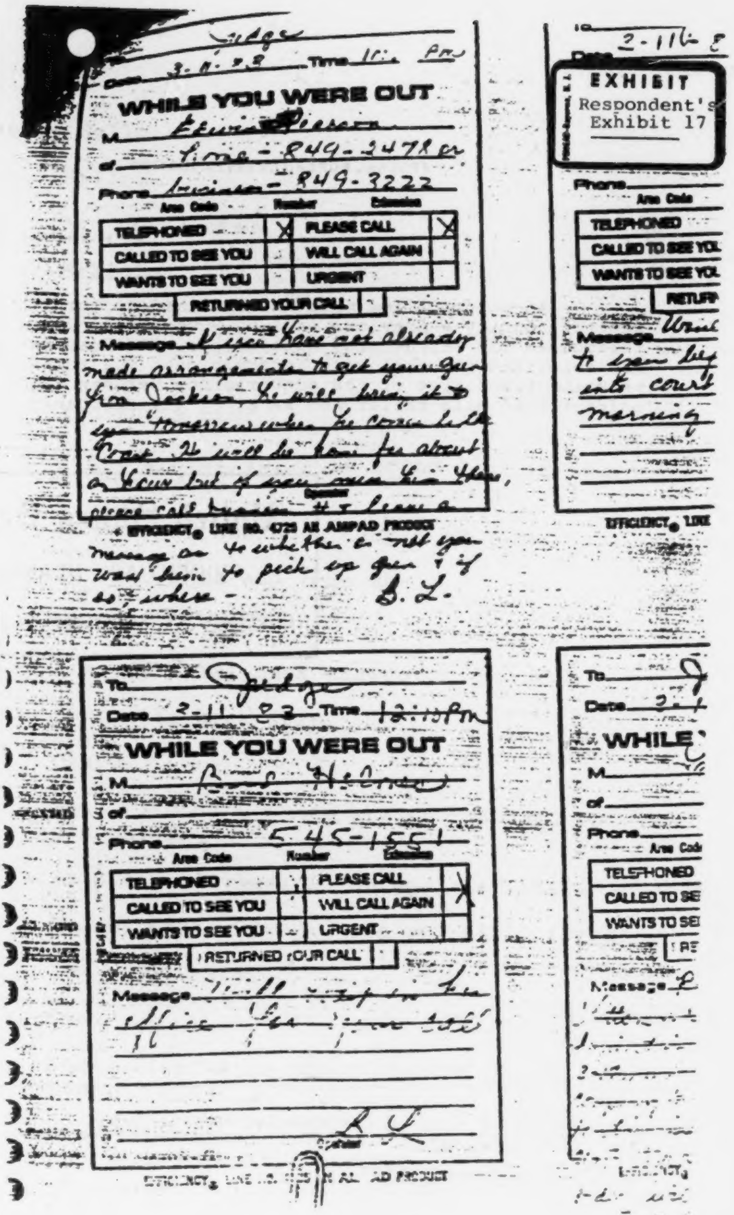
at the time of the hearing.

Watkins was again located earlier this month in a hospital in the Miami, Fla., area. On his release, he was arrested on a federal fugitive warrant and held for Forrest County authorities. He waived extradition and appeared in court here Wednesday afternoon after arriving by plane with his attorney.

After pleading innocent to the conspiracy charge, Watkins was released on a $100,000 bond until the March court term. Trial is set for March 21.

Holmes said four other out-of-state men were arrested in August, 1980, by federal authorities and have been tried and sentenced through the federal court system.

"This was actually a federal case all the way. When they did not prosecute these two men, we did."



To Judge

Date 3-11-83 Time 10: Pm

WHILE YOU WERE OUT

M Elwin Pierson

of Home - 849-2478 or

Phone Business - 849-3222

Area Code Number Extension

TELEPHONED	☒	PLEASE CALL	☒
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐

RETURNED YOUR CALL ☐

Message If you have not already made arrangements to get your gun from Jackson, he will bring it to you tomorrow when he comes to the Court. He will be there for about an hour but if you miss him there, please call business # & leave a message as to whether or not you want him to pick up gun & if so, where - B. L.

Operator

EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT

To Judge

Date 2-11-83 Time 12:10 Pm

WHILE YOU WERE OUT

M [illegible] Helms

of

Phone 545-1551

Area Code Number Extension

TELEPHONED	☐	PLEASE CALL	☒
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐

RETURNED YOUR CALL ☐

Message [illegible]

R L

Operator

EFFICIENCY® LINE [illegible] AN AMPAD PRODUCT

To

Date 2-11-8

EXHIBIT

Respondent's

Exhibit 17

Phone

Area Code

TELEPHONED	
CALLED TO SEE YO	
WANTS TO SEE YO	

RETUR

Message Woul

to have hi

into court

morning

EFFICIENCY® LINE

To J

Date 2-

WHILE

M

of

Phone

Area Cod

TELEPHONED
CALLED TO SE
WANTS TO SE

RE

Message [illegible]

EFFICIENCY®

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 1-17

FD-302 (Rev. 3-8-77)

EXHIBIT
Respondent's
Exhibit 18

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 11/29/83

An unidentified male who declined to furnish his identity during a previous call on November 3, 1983, again telephoned the Pascagoula, Mississippi, FBI Resident Agency and furnished the following information. The following is a verbatim transcript of the conversation between the unidentified male caller and SA K. P. White-Spunner, Jr.:

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 18

Investigation on 11/10/83 at Pascagoula, Mississippi File # JN 58B-109—15

by SA K. P. White-Spunner, Jr./val Date dictated 11/22/83

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Unidentified Male: Hello.

White-Spunner: Hello.

UM: Are you there?

WS: Hello.

UM: Hello.

WS: Hello.

UM: You there now?

WS: Yeah, I hear you. It sound like it was disconnected.

UM: It did off and on a couple of times.

WS: It rang once and then ah-

Hello.

UM: Are you still back there?

WS: I'm still back here.

UM: Okay-

WS: What kind of a phone are you talking on (laughing).

UM: It's one of these ah deregulated AT&T.

WS: Oh, my gosh. Okay- Are you still there?

UM: I'm still here.

WS: Okay-

UM: Looks like we're gonna have to put up with that.

WS: Okay. Look here. Ah we have problems but not insurmountable problems. Ah, in order to try to keep things ah as secure as we possibly can, it is extremely difficult for us to go directly to Getty Oil Company. Ah this is the feeling of people at Headquarters, and I'm not talking about Headquarters in Jackson. I'm talking about back in Washington. Ah they don't know whether they need a subpoena to get the information or whether we can walk in there, you know up-straight like I told you last week when we talked and asked for it. Ah that's where it stands right now. We don't wanna do anything within this state which may jeopardize you.

UM: Okay.

WS: So ah I am dealing directly with the Department of Justice, a Deputy Assistant, Chief of a Public Integrity Section. His name is Bob Richter.

UM: Okay.

WS: And he would like, at some point in time, to talk with you. Ah, of course that's up to you.

UM: I'm really hesitant on this. I can give you a few more ideas, and maybe some of these can go with, with me still staying in the background as it stands right now.

WS: Okay.

UM: Okay, let me see. I made a few notes here so I wouldn't forget anything. Okay, first of all the checks are gonna run through the accounts ah of ah, of Fairchild.

WS: Uh-huh-

UM: But now I was gonna suggest that you check those bank accounts, but he's a director in that bank. So the first time you walk in and ask any questions of that, at the bank-

WS: What bank is that now?

UM: It's the Bank of Hattiesburg-

WS: Oh-

UM: In Hattiesburg, Mississippi-

WS: Okay.

UM: Ah, he being a director, somebody'll pick up the phone and call him immediately-

WS: You, you're right. That's right.

UM: Okay. Ah, you might want to talk to some of the former employees.

WS: Of who?

UM: Of, of Fairchild that ah might have knowledge of this. There're some current employees- This is where I got most of my information-

WS: Okay-

UM: From talking to them.

WS: Okay.

UM: Ah, let me see.

WS: Who would be some former employees that you might know of?

UM: Well, I, that'd tell you who I've been talking to (laughing)-

WS: Oh, okay-

UM: Ah, let's just put it this way. Since ah, say since the, the end of 19- Let's say

Friday, January 7, 1983 Hattiesburg AMERICAN

Weldy passes to inactive file Fairchild drug smuggling charge

BY JANET BRASWELL
AMERICAN Staff Writer

A drug smuggling charge against Redditt Andrew (Drew) Fairchild was passed to the files last month in one of Jack Weldy's last acts as Forrest County Circuit Court judge.

Fairchild had entered a plea of guilty on Jan. 12, 1982, to a charge of conspiracy to possess more than one kilogram of marijuana with intent to deliver and was awaiting sentencing.

The motion asking that the case be passed to the files, or placed on inactive status, was filed jointly by District Attorney Bud Holmes and Fairchild's defense attorney.

Holmes is out of town and assistant DA Glenn White said he could not comment on the matter since he had not handled it.

The motion asked for the ruling so that Fairchild's rights to a "speedy trial, sentencing within a reasonable time and any due process" would not be violated by a continuing delay in scheduling his sentencing hearing.

According to the motion, the delay has been caused by the absence from the state of one of Fairchild's co-defendants, Robert Leman Watkins.

Watkins, believed to be the pilot of a planeload of 2,200 pounds of marijuana confiscated at the Hattiesburg Municipal Airport, remains at large although he has been jailed at least twice since the plane landed here in August, 1980.

He was picked up on Dec. 29, 1981, at the Dallas-Fort Worth, Tex., airport on a fugitive warrant from Forrest County. He was released from jail and "jumped" the fugitive bond on which he was freed.

Watkins was arrested again on Oct. 31, 1982, in Florida. Again, he was released on a fugitive bond and apparently has not been seen since.

According to the court motion, Fairchild cooperated with the Miss. Bureau of Narcotics and "supposedly the federal goverment" and had agreed to testify against Watkins "if necessary." The motion states others arrested in connection with the case were charged in federal court but Fairchild was not.

A case that has been passed to the files can be re-opened for further action so Fairchild continues to face the possiblity of eventually being sentenced.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 15

EXHIBIT
Respondent's
Exhibit 15

December of 80, anybody since then, and put you in the ball park of who I talked to.

WS: In other words anybody who has been working or has quit since then.

UM: Right, right-

WS: Wait, wait now. Anybody who's quit since then or who's worked-

UM: Those are one, those are the main ones who'll be willing to talk to you. The ones that are still there'd be afraid to.

WS: Okay. What have they got, an ax to grind or something against him?

UM: I don't know. It's ah- I tripped and fell over this stuff, and I've been sittin' on it and going holy shit-

WS: Yeah-

UM: And didn't know what to do with it.

WS: Okay. Ah-

UM: So I- One thing led to another, and curiosity got the best of me, and I started asking questions.

WS: Okay. Let me ask you a question now. On the checks, you say, they're gonna all come in on ah, at the Fairchild's account at the Bank of Hattiesburg-

UM: Okay-

WS: Are these the royalties checks?

UM: Right. You know I told you there were three, three properties.

WS: Right.

UM: One of them will go through Getty's payments. Getty's paying the royalty on that. That's the one- That's the interest that I gave you to check out in Houston. The other two are handled strictly out of the office in Hattiesburg, and the checks'll go, go out of the office and, and go through the bank account of that company.

WS: Okay (unintelligible). Then in other words, the other two wells are not Getty ah-

UM: No, no.

WS: Okay. And, and they will be checks payable to the judge, right?

UM: Right.

WS: As far as you know. I mean, they may be payable to some relative of his or some company that's been set up to-

UM: The information I have, they're paid directly to him.

WS: Okay, ah-

UM: From what I understand also, the judge's secretary- I don't know how much knowledge she has of what, of about this, but she has handled part of it.

WS: Do you know the judge's secretary?

UM: Do you know her?

WS: Yeah.

UM: I know who she is.

WS: Okay, then you know she used to work for us, right?

UM: Yeah, I don't think she knows what she's got. I really don't.

WS: Probably not, probably not, yeah.

UM: I think, I think that she's ah- Every, from, from everything that people tell me, she's pretty, pretty straight.

WS: Yeah, right, right. Ah I would attest to that, I think, myself. Ah-

UM: Well, that, that's the, the, the scuttlebutt that I get coming back.

WS: Okay-

UM: But ah she, she knows about the assignments though.

WS: Okay, ah- Um- Here, okay, here- Let me, let me just mention how, you know, this- Your call last week hit a very ah, very sensitive button, let us say, and we're really very sensitive about protecting your confidentiality, ah which is what you want I a, I assume-

UM: Yes, above all-

WS: Ah, this, again I say, is being handled. There are ah- Nobody, very few people outside of the other people who have to handle my correspondence- Other people don't know about this.

UM: Okay.

WS: The only other one is the name of the person I gave you is Bob Richter back in Washington, D. C.

UM: Okay.

WS: And ah, ah he would even be willing to fly you up there to talk with him if that was necessary. Ah, that, of course, is something for you to consider.

UM: Let me think about that.

WS: O-okay, that's fine, but, I tell you what, I really- Ah based on, you know, what I told you last week, I'd really like to sit down and talk with you. If, you know, if you're gonna trust anybody, you're gonna-

UM: (Laughing)

WS: (Unintelligible)

UM: Ah let me, let me keep that under my hat-

WS: Okay-

UM: I, I'm not ready to do that just yet.

WS: Okay, now ah- You have any other thoughts on this Getty business.

UM: The ah-

WS: Do you know- Okay, this is for example. When we contacted ah without saying anything about the background, we contacted an agent we know out in our Houston Office and ah just asked him what the procedure was ah they used, if they did use any procedure, to go to Getty Oil Company, or any oil company out there, and, you know, get information. And he didn't have any idea because they apparently have no occasion to do it.

UM: Okay, well, I went back and checked my notes-

WS: Uh-huh-

UM: Okay. You know I told you that, that the

Hattiesburg attorney named Ingram was the one who handled the-

WS: Carroll Ingram?

UM: Right-

WS: Yeah-

UM: The negotiations between Fairchild and Nixon.

WS: Right.

UM: Okay in July, on July 21st of 81 he sent a letter to the Houston office ah trying to get them to set up that, that thing for payment for the judge.

WS: Ah he sent a letter to that ah Beckham lady at, that girl you gave, okay-

UM: Right, right, Delores Beckham-

WS: Okay-

UM: Okay and on July 23rd, she wrote him back that there were problems with the ah, with the interest and that she really didn't know how, how to do it because the interest was screwed up.

WS: Uh-huh.

UM: And so then they went through some back and forth correspondence, what I understand, that, that set everything up and got it paying, payable to him.

WS: Uh-huh-

UM: And then Getty should have started cutting the checks to him.

WS: Okay, in other words, it looked to you from reading the correspondence that, that Getty did start cutting the checks to him-

UM: Yes-

WS: Even though she said there might have been some difficulty.

UM: It should have been corrected ah- See this was back in 81-

WS: Right-

UM: We're talking two years later. I'm not-

WS: Right-

UM: Positive it'll be in the pay status.

WS: Okay. Okay.

UM: Now the- Like 1 told you last week, the interest or the conveyance that you saw, and when any questions are asked, they're gonna be shown notes. The- Everything is backdated prior to the date of arrest-

WS: Okay-

UM: Of, of, of Fairchild's son.

WS: Okay.

UM: That was, from what I understand, that was done to get this, to show like it was done prior to, to the whole thing, not at the same time.

WS: Uh-huh, okay, I understand that. See, what we don't wanna do- What we're afraid of right now, and, and it may be we'll end up doing it, but, but right now we're afraid that if we go in to Getty Oil Company and ask for ah, you know, their records concerning ah royalty payments on this Getty ah Rogers, I think it was, ah well-

UM: Uh-huh-

WS: Over here. That's in Mississippi now, isn't it?

UM: Um, yes.

WS: That description, that land, land description you gave me, that township range is in Mississippi?

UM: Yeah.

WS: Okay.

UM: Now I haven't gone to Marion County to see if, if they put this on record. I have not done that yet. I, I should have-

WS: Okay-

UM: Done it before I called.

WS: Okay, in other words, that's where it is, up in Marion County?

UM: Marion County.

WS: Okay, but what our, what our problem is is if we go to Getty Oil Company and ask for these records, ah would they give 'em to us without any question- Would they ah, or would they question 'em ah and still give 'em to us, which might mean a danger that they would inform ah the interest holders that the FBI's looking into this ah for, you know, some unknown reason, which we don't want to do.

UM: Uh-huh.

WS: Ah, or would they say well we'll give you the records, but you'll have to have a subpoena. That is the dilemma that we're faced with right now, and we did not wanna act on it precipitously ah, you know, mainly to avoid the getting, you know, highlighting you-

UM: Right.

WS: Ah, you know, 'course only you know, you know, whether such an approach would ah ultimately get back to you.

UM: I don't think that ah- I don't think that Getty is going to raise any question if it's, if it's handled kind of ah nonchalantly. Now if-

WS: Okay-

UM: You go in there like ah, like gang busters, that's when-

WS: Yeah, well, no, we wouldn't do it that way at all, but ah, you know, some- There're, there are, ah these would be financial records, you see, and it-

UM: Just out of curiosity, could, could the IRS go in there and check it?

WS: Now that's a, ah, I don't know. Ah we have not ah certainly not even touched with IRS on this, and ah we wouldn't wanna do that at this point anyways.

UM: Uh-huh-

WS: Ah, you know, what we're doing, we're dealing with financial records, and there's a financial privacy act which ah, ah covers banking institutions, and I'm not sure whether it would extend to royalty payments coming out of a, of any form of private company. Ah, the chances are it doesn't, but these are things that, you know, Justice Department is gonna have to decide, and these are- Let me ask you a question. You mentioned the last time we talked about, you know, bringing this up to George Phillips at a party in Hattiesburg one time.

UM: Yeah, ah-

WS: When was that?

UM: That was back in ah, I wanna say around Christmas time of eighty-one.

WS: Uh-huh.

UM: From what I understand, one of, one of the ah employees asked him about that.

WS: The Fairchild employee?

UM: Uh-huh-

WS: And-

UM: Asked him about the, how it was handled, and his response was, well it happened before my time and, -and walked away.

WS: He was asking about what, the arrest or what?

UM: Why, well why nothing had been done, why everything was, was just, had just been, been put in, on ice.

WS: Oh, I see, okay. Okay, 'cause I've learned, ah, you know-

UM: I'm, what happened, if I'm not mistaking, now I'm gonna go back over this thing trying to do it chronologically-

WS: Uh-huh-

UM: Back in August the Customs people were following a plane-

WS: Okay-

UM: Coming out of Florida-

WS: Yeah, we got all that.

UM: Okay, you know that ah the refueling stop was there in Hattiesburg-

WS: Yeah-

UM: You know about all that.

WS: Okay.

UM: Okay, during this time ah, from what I understand, several people in, in Covington County where he comes out of-

WS: UH-huh-

UM: And down there at his office, Fairchild made comments about how they were trying to up the ante to get, get him to take care of it.

WS: Uh-huh.

UM: And that they just didn't know how to get him up on the price.

WS: Yeah, okay.

UM: Okay, let me see. There are several people that, that commented that he'd said that to 'em. Now, I have to pick you for a little bit of information.

WS: Try to, go ahead.

UM: Okay. From what I understand, he was concerned about something, that there were a doctor in Meridian that y'all were checking into, and the father made a comment in the wrong place at the wrong time that y'all were checking into that, that he could help the son-

WS: You-

UM: The doctor.

WS: The doc- was this, we were checking into this doctor in connection with what?

UM: With ah, some drug dealings or prescriptions-

WS: Okay-

UM: From what I understand, the father went to Fairchild and wanted him to ah, wanted him to take care of it. See, you know, see if he could keep the son out of hot water.

WS: Uh-huh.

UM: Ah then after, from what I understand, that got Fairchild kinda rattled.

WS: Uh-huh.

UM: And he kinda went under rats for a little bit there.

WS: Um-

UM: But-

WS: Okay, I, I don't know.

UM: See, the, I, I- If, if, if I understand correctly, I think the, the office that was working on that was coming out of New Orleans.

WS: Uh-huh, I, well, no, it woulda been us. I, unless it was Drug Enforcement Administration.

UM: Uh-huh, I, I'm not sure who, whether it was, was whether it was y'all or who it was.

WS: Yeah, I, I don't know ah-

UM: But some-

WS: I can find out though-

UM: Someone had contacted him, and he was really worried about that, that he-

WS: That was Fairchild they contacted-

UM: Uh-huh-

WS: Okay.

UM: Someone had, someone had let him know that he was being checked into.

WS: Ah, okay, well I- It's my understanding ah from discreetly checking, after you called, into this business about ah read it up there in, in ah Hattiesburg that ah, you know, I got, I got filled in, in other words, on what happened up there, and I understand there was a big ah, ah deal in the newspaper because it wasn't handled properly-

UM: Right-

WS: Or wasn't handled at all, and there was a big stink.

UM: It wasn't handled at all. As a matter of fact- See, the deal with Nixon was to keep it shut down on the federal level to get it, get the State to handle it. The State has just sat on it-

WS: The State didn't handle it.

UM: State has sat on it. As a matter of fact-

WS: Uh-huh-

UM: If you go in the courthouse over there and check the file-

WS: Uh-huh-

UM: There is, the, the plea of guilty was entered. It was committed to the files. It was ordered-

WS: Yeah-

UM: Back from the files, and then absolutely nothing has been done with it.

WS: Um, um, um.

UM: Ah, this thing is e- One more thing that the reason the locals showed up at the ah, now this is speculation here-

WS: Uh-huh-

UM: I, I don't know, but the reason the locals showed up is, is that Bobby Chain, the Mayor, is a very close business associate-

WS: Uh-huh-

UM: With Fairchild, and from what I understand- Well, well this was speculation that was told me, was that they think that, that, that the Hattiesburg PD got wind that, that the plane was being followed-

WS: Uh-huh-

UM: And that ah they assumed the bust would be made-

WS: Uh-huh-

UM: So the purpose of the, of the city boys being out there was to, to give 'em an out.

WS: Yeah, okay-

UM: You know, more-

WS: It's possible. Shoot, I don't know-

UM: More or less the calvary-

WS: Yeah-

UM: Instead of ah assistance-

WS: I agree. Let me ask you. When are you gonna be back down this way?

UM: Another week or two. I've got to go up to north Mississippi.

WS: Where in the heck is three, five, two? Where are you calling from?

UM: (Laughing) I'm not gonna tell you that.

WS: Okay.

UM: I'm just bouncing around.

WS: Okay. Ah is there any way I- No way I can contact you?

UM: No. One more thing-

WS: Okay.

UM: Have you got a WATS line?

WS: I've got- Yeah, we've got WATS. We've got FTS.

UM: Uh-huh. What is that?

WS: That's Federal Telecommunications System.

UM: What I was- Every- I hate to shoveling quarters into these damn phone booths to have, to call you back. Can I call you collect and just leave a number and have you return my call, or do you have a WAT- incoming WATS or what?

WS: Well, no. There's no WATS line coming down here to this office. I've got a, you know, a WATS line that connects to our Jackson Office.

UM: Okay.

WS: But it, it wouldn't ah, it wouldn't be good to go through there.

UM: No, okay.

WS: Ah-

UM: I'll just keep shoveling quarters.

WS: Okay well let's do it this way though. Just shovel your quarters and ah, you know, if I'm not here, my partner'll tell you I'm not here.

UM: Okay.

WS: And if I'm here ah, I'll just, you know, get the number and call you right back.

UM: Okay.

WS: This way it'll only cost you a quarter.

UM: Okay. Quarter, hell. She charged me-

WS: (Unintelligible)

UM: Two dollars and five cents.

WS: Oh, she did?

UM: Just kidding-

WS: Yeah, okay-

UM: (Unintelligible)-

WS: Well ah we'll just- I think this'll probably be the best way to do it right now.

UM: Okay.

WS: Ah-

UM: But you, you kinda see what I've got a hold of here though?

WS: I see. Ah, I mean I, I, I don't see, but I see partially.

UM: Okay.

WS: I don't see as clearly as, as you see it because you're more on top of it than I am right now.

UM: There is physical proof in existence that I, I found this out, and I, I think I know where to, where to put my hands on it.

WS: Uh-huh.

UM: There is physical proof in existence that these things were backdated.

WS: Okay, well that's what we need to find.

UM: Okay, is that the key to the whole thing?

WS: Ah, it, it definitely would be a key, a major key.

UM: Okay, what else do you need? Tell me that, because I can, I can put my ear back to the ground.

WS: Ah, put your ear back to the ground on that, and if you get that, that'll be, that'll be great. Ah if, if there is physical evidence of backdating of these things, ah that would certainly prove a lot.

UM: Okay. Okay-

WS: And any other information ah, you know, not including these royalty payments too that you might come up with.

UM: Okay, well, most of my information has come from current and former employees.

WS: Uh-huh.

UM: And they're all, you know, I don't exactly- I can't come out and ask 'em a question like, like you're coming out and asking me. I have to kinda-

WS: Yeah, know-

UM: Pick, and-

WS: What you're talking about-

UM: And dig, and-

WS: Yeah-

UM: Play a little golf and-

WS: Yeah, okay. I understand.

UM: But all the pieces- I, I've got all but about one or two pieces, and the jigsaw puzzle will be completed.

WS: Okay, well, well put the- See if, see what you can come up with as far as proof of the backdating. Ah, and you probably can come up with that in some correspondence between ah Ingram and Getty. I don't know.

UM: No, uh-uh. It's not there. I checked.

WS: Okay, well-

UM: But I, I found another source that I think, I think may- One, one, one thing about, what about ah the employees that, that, that did the preparation of the instruments? Would-

WS: That would be ah, very definitely.

UM: Okay.

WS: Very definitely.

UM: I, I can pretty well put you on two of 'em, I think-

WS: Okay-

UM: That, that can verify that.

WS: Okay.

UM: Otherwise ah- Do you want- Are you gonna go ahead and start talking to the employees, or do you wanna sit tight on this or what?

WS: Ah it, you know, more or less, you're the one that's ah-

UM: (Laughing)

WS: I, I tell you. Listen. You're the one I'd rather talk to first.

UM: Okay.

WS: Because once we start talking to employees, then-

UM: Yeah.

WS: They might know that, you know-

UM: Okay, I, I do know for a fact that two of the inside employees, one may talk to you in confidence-

WS: Okay.

UM: One will not lie for 'em, but he may just have a stroke and fall over.

WS: Okay.

UM: Ah-

WS: Okay.

UM: The office manager, Billy Riley-

WS: Uh-huh-

UM: Is the one who handles the ah, the royalty payments.

WS: Okay-

UM: For-

WS: Will he talk to us?

UM: I don't think so.

WS: Okay.

UM: But, but okay. Now, now these checks are coming out of two companies that they operate out of that office.

WS: Uh-huh.

UM: One is W. R. Fairchild Construction Company Limited.

WS: Uh-huh.

UM: One is ah Fairchild-Windham Exploration Company.

WS: Fairchild-Windham?

UM: Windham. It's Fairchild-

WS: D-

UM: Hyphen, Windham, W-i-n-

WS: Okay-

UM: D-h-a-m Exploration Company-

WS: Okay.

UM: And ah that lady is- Her name is Margaret Buckley that handles those. She may talk to you in confidence. I don't know.

WS: Okay.

UM: Ah do you, can you- No, I was gonna say would, would Mrs. Clark talk to you about any of this? But she may be too close to the judge.

WS: We would not want to try her-

UM: Okay.

WS: At this point.

UM: Not saying that she would run to him, but her, her loyalty-

WS: Ah her loyalties lie with him.

UM: Right. I can understand that.

WS: Yeah.

UM: So.

WS: Okay. When are you gonna call me next?

UM: Ah, what about ne- Is Thanksgiving next week or the following week?

WS: It's the following week.

UM: I've got to go up to north Mississippi next week. If I can get back down and go through there and talk to any of these folks-

WS: Uh-huh-

UM: It's gonna have to be kinda nonchalant. I'll try and-

WS: Yeah-

UM: Get to them next week.

WS: Okay.

UM: If I can rearrange my schedule for next week.

WS: See ah here's the thing. I, ah why did you call me today?

UM: Why?

WS: Yeah.

UM: You said to.

WS: Well, you said just the end of this week or next week.

UM: Well, I called you today because it was exactly a week from last week.

WS: Okay. Well, okay, that's good enough, but the reason I, I was curious is because tomorrow is a holiday. When I talked to you last week, I did not realize that we would have tomorrow off, and-

UM: You got it made.

WS: Yeah, oh, I know it. I know it. I won't refuse any of 'em.

UM: (Laughing)

WS: But ah, ah anyways, if I do, you know, I'd like to be around when you call, in other words, 'cause I'm in and out all the time.

UM: Okay, let's say ah-

WS: Can you, okay, look, in case-

UM: We'll just make it Thursdays on a regular basis?

WS: Why don't we do that, and one-

UM: (Unintelligible)

WS: Okay, why don't you call me next Thursday.

UM: Around, somewhere around two o'clock again?

WS: That's fine, anywhere between twelve and two.

UM: Okay, that'll, that'll let you get out of the office.

WS: That's right. That, that'll be good. Call me any time between twelve and two next Thursday, no matter where you are.

UM: Okay.

WS: And I'll just call you back.

UM: Okay.

WS: Okay?

UM: In the meantime, you want me to see what I can dig up on, on the backdating, right?

WS: If you will, please.

UM: Okay.

WS: Okay.

UM: That you got, and I'll talk to you later.

WS: Okay, thank you.

UM: Okay, bye.

WS: Bye.

FD-[illegible] (REV. 3-8-77)

EXHIBIT
Respondent's
Exhibit 19

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/1/83

The same unidentified male who had previously furnished telephonic information in this matter again telephoned the Pascagoula, Mississippi, FBI Resident Agency. Again declining to reveal his identity, the caller furnished additional information. The following is a verbatim transcript of the caller's conversation with S[illegible] White-Spunner, Jr.:

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 19

Investigation on 11/17/83 at Pascagoula, Mississippi File # JN 58B-109-19

by SA K. P. White-Spunner, Jr./val Date dictated 11/22/83

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency. It and its contents are not to be distributed outside your agency.

(Unrelated telephone conversation)

White-Spunner: Speaking.

Unidentified Male: You wanna call me back.

WS: Yeah, okay.

UM: Okay, it's 969-

WS: Nine, six, nine-

UM: Nine, five, six, four.

WS: Nine, five, six, four.

UM: Right.

WS: Okay, I'll call you right back. You're in the State, aren't you?

UM: Uh-huh, yeah.

WS: Okay, right.

UM: Hello.

WS: Hello.

UM: Okay, I got one or two things. Didn't get a whole hell of a lot for you.

WS: Okay.

UM: You might try checking deposits at the Peoples Bank of Biloxi. Let me give you the account number. It's 007-827-2.

WS: Zero, zero, seven, eight, two, seven, two-

UM: Two, uh-huh.

WS: Okay, what's that, in the name of what?

UM: It should be in the judge's name.
WS: Okay.
UM: I believe you'll find that the ah deposits coming from Fairchild be going in that account.

WS: These are the royalty, the ah payments?

UM: Yeah, uh-huh.

WS: Okay.

UM: Let's see what else have I got here. Pretty much- Oh, ah, I thought of a way to get around your, your problem in ah, in Houston.

WS: Okay.

UM: Is just request a copy of the ah title opinion for that section, copy of the division order title opinion. It's, it should include everybody in there. And then all you've got to do is just tie the, just look for the names.

WS: In other words your ah, okay, would that title opinion be recorded in Marion County?

UM: No, no. The ah, the conveyance should be, that backdated conveyance.

WS: Should be recorded in Marion County?

UM: It should be. I haven't been able to get over there yet. I've been tied up in north Mississippi this week.

WS: Okay, but okay, now, the title opinion for that section that you described-

UM: There should be a copy of it in the Houston Office. They use that to determine who gets how much of, of the production from that well. So there'll have to be a breakdown somewhere in, in the Houston Office, and that won't be ah invading anyone's privacy by going into personal private correspondence.

WS: Okay.

UM: And that, hopefully, that will give you some kind of probable cause to go in and, and do a little more checking.

WS: Okay. Okay, that- See that's one of the problems we have, you know. In order ah, if we- Right now we're, we're still trying to check and see ah how easy or difficult it is to get this information from ah Getty without attracting any undue attention to what we're looking for. Ah, if we-

UM: But ah-

WS: If they said look, we can't give you anything ah barring a subpoena, on what we have right now, we can't get a subpoena.

UM: Can you be real nonchalant? If I can walk in there and get copies, so can you.

WS: Have you done it?

UM: I've been in there.

WS: To Hous- to Getty?

UM: Uh-huh.

WS: Okay, well, I mean, how do you ah, how, how do you do it? I mean, is it ah, is-

UM: You just have to talk very fast out of both sides of your mouth.

WS: Yeah.

UM: Go in there like you're an owner, like you know what you're doing.

WS: Okay, yeah, but I mean, it's not- Let, let me ask you this. If, if what you're doing, if, if you walk in there, if they knew who you were or who you represent ah, you know, legitimately, would they give that stuff to you, or you just, you kind of sli- you doing an in-run on 'em to get, get it when you go in there.

UM: An in-run.

WS: Okay, okay. Ah, so still we might have to-

UM: See, you're gonna be in a position where you got, you got rules to abide by. I don't.

WS: Yeah, I understand that. I mean, our ah, you know, and our rules are pretty, very, very ah structured too. Ah, that's why we haven't made any approach so far.

UM: Ah, can you get access to- I'm trying to think of some way to get into access on the, the Peoples Bank on that in-information on that account.

WS: Ah, again, not without a subpoena. Ah, because see now we're talking very strictly about financial records, and these are gonna be financial records of an individual, and the only way we can get them is either by written permission under the Financial Privacy Act of the individual, who would be the judge, or through a ah grand jury subpoena.

UM: Uh-huh.

WS: And ah, you know, it's good to know the account and the account number, but at this time I think it's premature to try to, you know, go in to get bank records.

UM: Stupid question, but I'm gonna ask anyway.

WS: Sure.

UM: Ah this, while I've been going down the highway I was thinking about this. How in the hell you gonna get a grand jury to hear this without him finding out what's going on?

WS: Ah, we'd have a grand- That would be very simple. We'd have a grand jury that is ah not even convened in this state.

UM: Oh, okay.

WS: See, that would be ah, you know, probably in the District of Columbia, frankly.

UM: Okay.

WS: If, but see, in other words before we can- That's why I told you. We're dealing directly- We're, we're going around a lot of people who, normally, through the chain of command ah in my outfit, would have a sayso on this thing. We're going directly and dealing with Bob Richter at the department of Justice. The name, the same, the man I told you last week when you called.

UM: Yeah, what was his- deputy director of operations?

WS: No, okay, I'll tell you, I'll read you his title. He is- Hang on one second, Deputy Assistant Chief, Public Integrity Section, Criminal Division, U. S. Department of Justice.

UM: Well, it certainly sounds impressive.

WS: It is, yeah, right. I don't know the guy personally, but I talked to him on the phone, you know, and, and ah, he is the person who is the decision maker on everything here, and ah, you know, as I say, he'd like to talk to you, you know, at some point-

UM: Well-

WS: In time, ah-

UM: Right, right now, I'm still scared of the judge, and, you know, we talked about this earlier.

WS: Yeah, right. I, okay, I understand that. I mean, dealing, you know, when you're dealing with something like this, ah, ah even from our standpoint, we've gotta be extremely careful because ah, ah, if, if it ever got back ah, you know, to the judge, or frankly, to Fairchild, for that matter, that we were looking into this, ah, ah, at the very least, as you pointed out in your earlier conversation with me, ah papers might be burned. Ah, and then, of course, other things could be made difficult for us in other ways too.

UM: There's, there's something that I'm trying to, trying to figure out how to, how to get for you, and I'm not real sure. There- From what I understand, back in ah- This had to be early eighty-one- There was ah- Hang on just a minute.

WS: Okay.

UM: From what I understand, ah the one on the coast- I've got somebody standing right here, so I'm gonna have to be a little cryptic.

WS: Yeah, okay.

UM: But, but the one on the coast ah went to Hattiesburg, and there was a meeting between the three of 'em, and ah there in, in the Hattiesburg office.

WS: Fairchild's office?

UM: Yeah, uh-huh-

WS: Uh-huh.

UM: And this woulda been early in eighty-one.

WS: Uh-huh, okay.

UM: Ah, right about the time, I think that's when the deal was closed.

WS: Uh-huh.

UM: And ah, let's see who, who could verify that. I do know ah one inside, one, one current employee down there that could probably verify that.

WS: Who would that be?

UM: Margaret Buckley.

WS: Okay, that's the name you gave me before.

UM: 'Cause her office is right there by his. She's his bookkeeper.

WS: Okay. Okay, that- Let me ask- Now this is another thing too. Now you were saying last week that, you know, if we talk to former employees or current employees that have been there since ah December, 1980, ah, you know, we'd be coming up with the same information, but, you know, the- We can't, and, and we definitely are not gonna just start blindly ah interviewing employees because, you know, the chances-

UM: Yeah, I know-

WS: Of us talking to some, to the wrong person are greater than hittin' the right one, and, and I think you understand-

UM: Uh-huh-

WS: The problems that we have-

UM: Get the wrong one, it'll go straight back.

WS: You dadgum right. And so what we've got to do, you know if, if you wanna take this thing and, and see it through to the end, you know, as we certainly do, as long as there's some substantive ah, you know, evidence to support your allegation, then we are gonna have to talk to people who probably you've talked to, and-

UM: Uh-huh-

WS: We're gonna have to know, you, you know, that when we approach these people that they're not gonna turn around right after we left and run to Fairchild or run to the judge.

UM: Uh-huh.

WS: And, and, you know, it just boils down to that. It's ah- We're kind of in a box right now.

UM: Well see, I'm not sure about how to approach these folks and say hey, there're some folk- there're some people that I want you to talk to.

WS: Okay but let me, let me ask you, in that regard, why would they have talked to you- I'm assuming they talked to you about this. If, did, they must have had some reason to complain to you about it to begin with.

UM: It kinda started ah comment over a beer.

WS: Yeah.

UM: And all, you know, because it clicked some switches with-

WS: Yeah-

UM: Some people that I'm associated with.

WS: Yeah-

UM: That ah, ah, you know, I, I picked 'em, and each time I'd go back, I'd pick 'em a little more.

WS: Yeah. Okay, but let me ask you this now. Ah, but, and they still talk to you, right?

UM: Uh-huh.

WS: Ah, you could- Ah, what are we talking about, more than one person, right?

UM: I would say you've got one very crucial key in there. One that's gonna make or break the whole thing.

WS: You mean a witness?

UM: Uh-huh.

WS: Is that this Margaret?

UM: Um, no, she'll be, she'll be. She'll be very helpful, but she won't be the crucial one.

WS: Okay.

UM: She'll be the one to put the three of 'em together at the right time.

WS: Okay. Okay, let me ask you, okay, if you- I, I can only speculate that you're pretty close to this person who you think is crucial to the case.

UM: Uh-huh.

WS: Ah, is there any reason why you could not discuss privately this, with this person, you know, what you've been talking about for the last few weeks or month or whatever and say, look, have you ever, ah, you know, would you, if you feel so strongly about all this stuff, would you talk confidentially with a friend of mine? You know, is there any ah, ah, because I don't know any other way.

UM: I'm not sure whether he'd clam up on me.

WS: Yeah, I, I just don't know any other way. I mean, the thing is, I'd hate to- See, here's, here's another, here's a restriction we have. In a case like this, we are conducting what we call a preliminary inquiry, and under the rules of the Attorney General of the United States, and we have to go by these rules. It's a law. We have exactly sixty days in which to do something on this case. I don't mean prosecute. We've got, we've got sixty days to show that there is ah a little fire where there's smoke. You know, you're, you're throwing the smoke our way, but we've gotta be able to show there's some fire there, and, and that-

UM: Well, I tell you, the ah- I was reading an article in the paper yesterday about ah one that's confidentiality was lifted-

WS: Uh-huh-

UM: And ah it was less than eight hours later the State no longer had a case. It was in New York. Ah-

WS: You, you mean, talk about like a, a, a source or something like that?

UM: Yeah, there was, there was somebody that, that, the witness in a case in New York that, that ah was eliminated.

WS: Yeah, o-okay, well let me just tell you, okay, from your standpoint- Now, now let me just, let's just talk about it from your, from your standpoint as an individual. I don't know you, and I don't know what your connection is, if any, with the events that have gone on here that we've discussed. Ah, only you are, are aware of that, but I've, I'm-

UM: I'm, I'm more concerned about my friend.

WS: Okay, okay, because you, for example, I think ah you couldn't even be a witness.

UM: I know that.

WS: Because, I mean, un-unless you're a party to any of this stuff.

UM: Right, I'm aware of that, but-

WS: So-

UM: By the same token, I don't wanna, don't wanna bring somebody down a primrose path and get 'em knocked in the head one night.

WS: Yeah, I, I understand what you're saying about. I mean from, for you there's no problem. We would never, ever, ever have to reveal your name under any circumstances. Ah, you know, the only problem there would be with, with you would be if you had information that you, and only you, could testify to, and we needed that information to make a case.

UM: Yeah.

WS: But that apparently is not the case. What you have is, is hearsay of other people. I assume this is correct, right?

UM: Well I've gotten some documentation from 'em, so-

WS: Well, but that, that is stuff that, that we could get-

UM: Right, I-

WS: Documentation-

UM: Yeah, I understand-

WS: Would be no problem. Okay, let me- That's another thing, documentation. Ah, would you have any objection to mailing me a copy of some of that documentation? What I'm looking for is-

UM: You're gonna need, you're gonna need the other person to put this stuff together though-

WS: I, I know-

UM: You're talking about something that ah it's, it's gonna look clean and pretty and neat-

WS: Yeah.

UM: I told you everything was backdated-

WS: I know it. I know it.

UM: You could, you're gonna need that person to put it together.

WS: Okay, and, and this person, I assume, is a person who took part in the backdating.

UM: Right-

WS: Okay.

UM: Prepared the instruments and all.

WS: Okay. Ah, you know, and again, I say, ah we're, we're not gettin' any closer to where we wanna be. We're not gettin' any closer to supporting the original allegation. Ah, so you're gonna have to-

UM: Either pee or get off the pot?

WS: Exactly-

UM: (Laughter)

WS: E-e-exactly, and, and that's why, you know, that's why, number one, I don't think- Given the probability that you are not a person who can ah, ah give testimony in something like this down the road, ah it would be a lot safer for everybody concerned if you and I sat down eyeball to eyeball and talked this thing out and thrashed it out, say what in the heck we do, can we do. Because if there is a case, I am just as interested in you, as making a case, I am just as interested in you in, in ah protecting, you know, any key witnesses in the case also. And these are matters that, that we can discuss. Now it might be a good idea to ah, you know, you say there is one key witness to ah, for you to figure out, maybe make some notes, as to exactly what this one key witness does know and, and ah can testify firsthand to, and ah and also ah, you know, sooner or later, it, it's, you're gonna have to talk to that person and say, you know, hey ah would you be willing to talk to somebody from the FBI about this thing. You're not, you know, you're not settin' 'em up or anything, you know, and the, and if the person says ah no, not under any circumstances, then, you know, we might as well get off the streetcar, 'cause we're not going anywhere.

UM: Yeah, okay.

WS: But I think that you're, you know, you're the, right now you're the key.

UM: Well let, let me see what I can do, and ah, in that case.

WS: Okay. Now let, now let me bring up somethin' else too. You know, since you called last week, what- I don't understand yet, really, is- What is Judge Nixon's part in this. Now the reason, now let me go through this, and you can see, maybe what I'm talking about. Okay, August 4, 1980, four people were arrested in Hattiesburg when that plane came in with twenty-two hundred pounds of marijuana.

UM: Uh-huh.

WS: Okay. Ah, two people, two of the people involved, one guy was named Hatfield, and one was, name is Torrez (phonetic).

UM: Hold on just a second.

WS: Okay.

UM: Y'all both need to use the phone? Okay, ah, I'll just have him call me back. I'm talking long distance. How long you think you're gonna need it? Okay, can you call me back in about five minutes at this number?

WS: I'll call you back in ah- Well, I'll give you, I'll give you ten minutes.

UM: Ah, make it five.

WS: I'll call you back in five.

UM: Okay.

WS: Okay, right, bye.

* * * * * * *

Carpenter: FBI.

Overton: Harry?

Carpenter: Yeah.

Overton: Ah-

Carpenter: Oh, I was holding the other line. (Laughter) Okay.

Overton: All right. Ah, that is a pay phone in the lobby of the Walter Sillers, C-i-l-l- or S-i-l-l-

Carpenter: Okay, that's the same place then-

Overton: State Office Building.

Carpenter: That's in the lobby though, right?

Overton: Right.

Carpenter: Okay, fine, Mickey. Certainly do appreciate it.

Overton: Bye-bye.

Carpenter: Thank you.

* * * * * * *

UM: Okay.

WS: Hey.

UM: Appreciate it.

WS: Okay, what did you have, a line standing there to make a call or somethin'?

UM: Yeah-

WS: Okay-

UM: Standing behind me, and I was gettin' to where I couldn't talk to you.

WS: Yeah, okay. Where were we now? Ah-

UM: You were asking specifically what the purpose of the thing, what the payments went for-

WS: Okay, ah, let me, okay, let me just mention it. Okay, this is what I found out from my knowledge of the thing. Okay, four people were arrested, including ah Fairchild's son. Okay, two of those people, a guy named Hatfield, and a guy named Torrez, entered guilty pleas before U. S. District Judge Harold Cox.

UM: Uh-huh.

WS: Each of them was sentenced to five years and fined fifteen thousand. Now, I don't know if you know Judge Harold Cox, but ah-

UM: (Laughter)

WS: If there's anybody who I would consider incorruptible, and I'd bet my salary on it-

UM: I (unintelligible)-

WS: I would say that he is.

UM: That-

WS: Okay?

UM: To my knowledge, none of this filters his direction.

WS: Exactly. Okay, but this is the key, the fact that two of, but this, this case was put on his docket. Okay, now, that leaves Fairchild and one other fellow.

UM: The pilot.

WS: Well, whoever he was. Ah, let me see, I have his name written down here somewhere. Okay, anyways, these guys, Fairchild- Now, I'm gonna tell you this. I don't know if this is public or not, but I'm gonna tell you this ah anyways. Fairchild came to, ah he signed a plea agreement with the U. S. Attorney's Office in exchange for his testimony against the remaining guy.

UM: Uh-huh.

WS: Okay. Ah, the remaining guy- Let me see if I've got his name. Ah, let's see, there was a Hattiesburg attorney named William Porter who, who ah-

UM: Who is now-

WS: Who is now dead-

UM: Missing-

WS: Right, missing, right, I, ah-

UM: Uh-huh-

WS: Thought, I thought that name was a- Okay.

UM: Keep going.

WS: Anyways the guy, Porter's client, disappeared-

UM: Uh-huh-

WS: And so they could not, you know, they could not do anything with Fairchild because sentencing him was conditioned on his testifying in the trial against this fourth individual.

UM: Uh-huh-

WS: Okay, finally they located the guy-

UM: Brought him back from Florida-

WS: Brought him back from Florida, exactly right, and- Let me see here now. Their case is gonna come up within the very near future. I was led to believe maybe as early as next month, down here on the Gulf Coast. They've changed venue from Hattiesburg, because of the publicity, to the Gulf Coast. Judge McKenzie, Dickey McKenzie-

UM: Right, he's the Circuit Judge.

WS: Okay, he-

UM: Circuit Judge-

WS: He is gonna hear the case. He is gonna try the case involving this fourth man who is, like you say, must be the pilot. Okay.

UM: Uh-huh.

WS: Ah, Fairchild will be expected to testify against him at that time.

UM: Okay-

WS: When that case has been disposed of, McKenzie will sentence the man, and he will also sentence Fairchild. Now, the reason why Fairchild and the other man were not taken before, taken into federal court, was because if they had been, it woulda been Judge Cox who they would have appeared before, and because Fairchi- Judge Cox does not believe in plea bargaining of any kind. So that's why it was kept away from him. Now that's, that's the reasoning that was given to me. And, and it's logical knowing Judge Cox and knowing, ah, you know, he's not lenient. Judge Cox will not permit any plea bargaining to go on between the U. S. Attorney's Office and any defendant's attorney in his court, and boy he raises hell for it. I, I witnessed that myself.

UM: I'm familiar with Judge Cox.

WS: So ah that's- Okay, now, given all of that, what-

UM: You still don't see the tie-in. I, I know there's a-

WS: Well, the tie-in-

UM: Big question mark-

WS: Okay, the tie-in presents a question mark. And, and now you can say well ah, Fairchild and the judge are longtime cronies. Okay?

UM: (Laughing) No that, let me, let me try and put it in the proper prospective, the way-

WS: O-

UM: The way it was explained to me.

WS: Okay.

UM: Was that it couldn't go straight to the judge, which would be Judge Cox, because, you know, there they could not approach him.

WS: Right.

UM: The idea was to go, was to get Nixon, if anything was filed, to see that it was steered properly. Okay?

WS: Uh-huh.

UM: And that was what the payment was for. Now the thing was steered around. Now I, I don't know. I don't know whether, whether it goes as far as the U. S. Attorney. I doubt it, based on, on, from what I've seen, I doubt it went down that far. I think, I think, really, got paid for doing nothing.

WS: It, it's possible. You, you know, well the- See, okay, I understand that.

UM: Okay, but see-

WS: Okay-

UM: Now, now, on the other side of the coin, from what I understand, you know, this, this was negotiated. Ingram was the go-between, supposedly.

WS: Uh-huh.

UM: Okay, Ingram brings the judge out there to, to the office.

WS: Uh-huh.

UM: They have the little parlay.

WS: Uh-huh.

UM: Okay, the conveyance is run, or the, the deal is cut, Fairchild makes the comment to several people that an, well they're trying, you know, they think they can get the ante upped.

WS: Uh-huh.

UM: But, you know, they just don't know how to, how to deal with me.

WS: Yeah, okay.

UM: Okay, so then a deal is struck.

WS: Uh-huh.

UM: The ante is up. The deal is struck.

WS: Did they strike it at this meeting?

UM: I'm not sure if it was at-

WS: Okay-

UM: The, it, the deal was cut-

WS: Yeah-

UM: How much of the deal-

WS: Okay.

UM: Is what, what, what I'm not sure exactly when that-

WS: Okay-

UM: Was finalized.

WS: Okay.

UM: Okay-

WS: Were, was, was your key witness a, ah in on this at all or not?

UM: I don't know.

WS: Okay.

UM: He may, he may wanna claim immunity before he even talks to you.

WS: Yeah.

UM: Just in case.

WS: Yeah, okay. And, well, I mean, I, 'course I'm not, I can't, I'm no judge. I can't grant anything, but, I- Go ahead, continue.

UM: Okay, but ah, that's, that's where it came from. Okay now, now there're some notes that ah, from what I understand, one of the employees went to Fairchild and said ah, you know, look, you know, it's kinda peculiar that ah you did the, you, you give, give this to the judge, you know.

WS: Yeah.

UM: So ah, from what I understand, about two days later, some mysteriously backdated notes appear.

WS: Uh-huh.

UM: And the employees are laughing about the notes being backdated the same date as the backdated thing, and Fairchild is telling 'em, well see, we had these notes all along-

WS: Um-huh-

UM: And employees are laughing their asses off out there, from what I understand.

WS: Yeah.

UM: But ah that kinda- I, I think what, what, what got my folks really, really convinced or, or the, was the cover-up that was started, trying to cover it up with- See that, then the judge started making payments on these notes, and, and all, you know, it, it, it-

WS: Oh, you mean the judge was making payments on the notes.

UM: These, okay the notes- Let me see. The, the, the deal was cut. The assignments were done in eighty-one-

WS: Uh-huh-

UM: Some time about in eighty-two, they, some notes mysteriously appear.

WS: Are these, ah, when you say notes, you're not talking about-

UM: Promissory notes-

WS: Okay, promissory notes, okay.

UM: Okay, they, they mysteriously appear, and all of a sudden we're starting to catch up on our back payments that we're behind on.

WS: Okay.

UM: So the employees are sitting back laughing, saying look, you know, from what I understand, they were laughing, saying you want us to figure the interest back to eighty when we know we didn't even prepare the damn thing till eighty-one. But, you know-

WS: Yeah-

UM: But that's what got the employees starting to scratch their heads, saying wait a minute something's-

WS: Yeah-

UM: Going on here.

WS: Okay.

UM: And so they-

WS: Ah-

UM: From what I understand, they started putting two and two together and said uh-huh.

WS: Okay, ah-

UM: See, some of this- I can't put everything right out here before, you know- I, I-

WS: Yeah-

UM: I need your help too.

WS: Yeah, I know it, but I mean, but you see where, you see what my difficulty is. I don't-

UM: You don't have what I have-

WS: I don't have what you have, and I can't, and I'm restricted by a 60-day ah deadline to, you know, either, you know, shit or get off the pot. I gotta do somethin' ah-

UM: You know what, you know what my- I, I'll go and talk to the, talk to the guy, but I'll tell you what he's gonna, what his responses are gonna be.

WS: Okay.

UM: He's gonna say, okay, you're talking about a man with the Federal Government-

WS: Yeah-

UM: Talking about a federal judge-

WS: Exactly-

UM: He's gonna say uh-uh, buddy-

WS: Where else-

UM: No way, Jose-

WS: Okay, where else- I mean, if he has any, well, you know, 'course that really effectively stops any, stops everything, and number one, if you have the only key witness who is unwilling to testify, ah if you have ah, or even to reveal his identity-

UM: Well, see that's why I need, I need to be able to go to him and, and assure him that, that he can be kept confidential. Before I even approach him, I wanna be able to tell him that, and I don't know, at this point, if you-

WS: Okay, the only way to han-

UM: Can tell-

WS: The only way to handle that is, is for you to sit down with him and, and list down point by point everything that he can personally testify to, everything that he can personally attest to-

UM: Well won't that pretty well tell you who he is?

WS: It wouldn't tell me who he is.

UM: Yeah, but if goes to other sources, if it goes to the judge, he'll know who it is.

WS: Well it, it wouldn't- No, but, no- This is not what I'm saying. In other words say, hey, what, what we'd like to know is, okay, what does this guy know. And, and at that point, and when we know what he knows then we can be in a better position to determine whether we can guaran-

UM: Whether it's worth pursuing-

WS: Whether it's worth pursuing and whether we can guarantee that his identity would be protected or, or we could also come back and say look, we can't, we need this guy, if it's ever to proceed any farther than from where it is now, if this is ever to ah go to a, a hearing or to a grand jury, we've got to have him as a witness, otherwise, we can't proceed. You know, that's not- To me that's not asking too much. Ah, ah, you know, somewhere down- You know, you can't, you can't-

UM: I know-

WS: Do any, you can't take any prosecutive action or, or any kind of adverse administrative action against anybody unless you grant them to ri-the right to face their accusers.

UM: I, I'm aware of that-

WS: And-

UM: Okay, let, let me, let me hit him up. Let's see-

WS: Okay-

UM: Next Thursday is Thanksgiving so-

WS: Okay, let's make it ah, and I'm gonna be off next Friday. So-

UM: Can we do it- Let me, let me touch bases with you Wednesday.

WS: O-okay, I tell you what now. Wednesday, I'm gonna be ah gone all morning. Ah-

UM: How 'bout Tuesday?

WS: Ah, I'll-

UM: I'll run down-

WS: I'll be here Tuesday.

UM: I'll run down and, and see if I can't catch him this weekend.

WS: Okay.

UM: And ah, I can't promise you anything, 'cause he-

WS: No, well that's no-

UM: I can't press the issue too much, or he'll clam up on me.

WS: No, okay, that's not, I'm not, but given- Okay, you know what my restrictions are now. And, and, and the chances are we're, we're probably not even gonna be able to get to Getty Oil Company ah, without a, a subpoena. I, I don't know that for sure, but we're, we're still trying to check on that thing. Now, okay, also, if you, in the meantime, to show me some of this documentation, if, if you think you could copy some of it and just drop it in the mail to me. You got a pencil there? I'll give you my address if you-

UM: Hang on just a second, I need that-

END OF TAPE

FD-[illegible] (REV 3-8-77)

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 20

EXHIBIT
Respondent's
Exhibit 20

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1/31/84

Captain James R. Kelly, Mississippi Bureau of Narcotics (MBN), Southern Region, Hattiesburg, Mississippi, who is aware of the identity of the interviewing agent, furnished the following information:

Kelly advised that on August 4, 1980, a plane loaded with marijuana was seized at the old Hattiesburg Municipal Airport, and several subjects were ordered arrested at the scene with one subject, Robert Leaman Watkins, escaping. Kelly advised later Reddett Andrew Fairchild was developed as a subject in the matter. Kelly advised those who were initially caught were almost immediately prosecuted in Federal Court.

Kelly advised as best he can recall in September or October of 1980, the District Attorney in Forrest County, Paul H. Holmes, most commonly referred to as Bud, called him and told him Fairchild had offered to act as some kind of a snitch for MBN. Kelly advised that is all he remembers about the conversation but does recall hearing whether from Holmes or not that either Drew Fairchild or his father, Wiley Fairchild, had gone to Bud Holmes relative to this matter seeking advice as best how to handle Drew Fairchild's involvement in the matter.

Kelly advised sometime later, he recalled being "summoned" to Jackson, Mississippi, for a meeting held at the United States Attorney's Office. Kelly, in referring to his diary, advised his diary reflects that on November 25, 1980, between 1300 and 1600 hours, a meeting was held at the U. S. Attorney's Office in Jackson, Mississippi, with George Phillips, James Tucker, Tom Dial, Drew Fairchild, Bill Porter, and Charley Lindsey, who Kelly advised was in charge of MBN intelligence at the time, and Kelly in attendance. Kelly advised he does not recall the details of this meeting and does not recall any agreement being reached. Kelly further advised as of the date of this interview, he is not aware of any type of formal agreement between the United States Government and Drew Fairchild.

Kelly advised his next recollection of this matter is concerning the time immediately prior to Fairchild's indictment in Forrest County, which was August 19, 1981. Kelly advised his recollection about this was that Bud Holmes "threw a fit" over not wanting the Federal Government to handle prosecution of Fairchild but instead wanted Fairchild prosecuted in Forrest County Circuit

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Investigation on 1/24-25-26/84 at Hattiesburg, Mississippi File # JN 58B-109

by SA Donald M. Lawless/mae Date dictated 1/26/84

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Continuation of interview of Captain James R. Kelly Page 2

Court allegedly over adverse publicity that Holmes was receiving in the news media claiming he was showing favoritism to Fairchild, who is the son of a prominent Hattiesburg businessman. Kelly recalls in connection with this, Holmes called him daily, if not several times a day, relative to the matter and became somewhat of a nuisance in this regard. Kelly recalled it got so bad, he instructed his secretary to tell Holmes he was not in when he called.

Kelly advised Agent Mike Tyson of the MBN eventually testified before the Forrest County Grand Jury, resulting in the August 19, 1981, indictment of Drew Fairchild along with Robert Leaman Watkins on this drug matter.

Kelly advised his next recollection of significant events in this matter were those in January of 1983 when somehow the Hattiesburg press learned that Bud Holmes had passed Drew Fairchild's case to the file. Kelly advised much adverse publicity was generated over this matter, resulting in the case's being reinstated. Kelly advised between Fairchild's indictment and January of 1983, he recalls making numerous attempts to determine the status of the case through the District Attorney's Office in Hattiesburg and never recalled receiving any type of satisfactory answer as to what actions, if any, were being taken.

Kelly advised subsequent to Fairchild's indictment, Holmes took the position he was not going to prosecute Fairchild until Fairchild had the opportunity to testify against Watkins. Kelly advised he could not personally understand this posture inasmuch as Fairchild's testimony was not needed against Watkins, naming Charles Malone, a co-defendant in this matter, as one whose testimony could be used instead and who expressed a willingness to help for consideration in sentencing.

Kelly advised he further vaguely recalled being advised by Bud Holmes that somehow Fairchild was supposed to be helping out MBN in this particular matter, as well as other drug-related matters, but Fairchild as of the date of this interview has never helped MBN, not in the slightest, in any type of investigative matter.

Kelly advised MBN's investigative report relative to this matter had been furnished to the District Attorney's office.

On January 26, 1984, Kelly was exhibited a copy of a court order filed in Circuit Court on December 27, 1982, under Cause Number 10041 in the matter of the State of Mississippi versus Drew Fairchild which order ordered and adjudged that that case matter be passed to the files. In part, this order states that Drew Fairchild has agreed to cooperate with the State of Mississippi in its efforts to prosecute one of the other co-defendants in this matter and testify if necessary and further that the State of Mississippi has been made aware he has cooperated with the Mississippi Bureau of Narcotics and supposedly the Federal Government concerning this investigation and has not been indicted by the Federal Government for his role, although other parties besides Drew Fairchild were indicted by the Federal Government. Kelly, on being questioned as to the accuracy of this particular part of the order, advised "never, never, never, never, never" did Drew Fairchild ever cooperate in any way with the MBN in any type of drug investigation, nor had the District Attorney in Forrest County, Mississippi, ever informed the MBN of any type alleged cooperation of Drew Fairchild with that agency.

Kelly advised he had no knowledge as to why Fairchild was not prosecuted by the Federal Government and has no knowledge of any agreements that might have been reached between Drew Fairchild and the Federal Government.

FD-302 (REV. 3-8-77)

EXHIBIT
Respondent's
Exhibit 21

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 2/7/84

An unidentified male caller telephonically contacted the interviewing Special Agent at about 3:00 PM and furnished the following information. The following is a verbatim transcript of the caller's conversation with interviewing Special Agent. (The transcription is briefly interrupted at one point to allow for a tape to be changed):

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 21

Investigation on 2/6/84 at Jackson, Mississippi File # JN 58B-109

by SA K. P. White-Spunner, Jr./val Date dictated 2/6/84

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M. C. OVERTON and Operator: (Testing of Equipment)

WHITE-SPUNNER: Hello, hello.

UNKNOWN MALE: KEN-

WS: Hello.

UM: KEN WHITE-SPUNNER, please.

WS: Hey, speaking.

UM: Okay, can you call me back at 649-9788?

WS: Four, nine, nine, seven, eight, eight?

UM: Right.

WS: Give me- Are you gonna be there for a couple minutes? Hello.

UM: Hello.

WS: Are you gonna be there for about two or three minutes?

UM: Yeah, I can stay here for ten minutes-

WS: Okay, 649-9788.

UM: Right.

WS: Okey-doke-

UM: Okay, thank you-

WS: Bye.

JOHN PROCTOR: Switchboard.

WS: Hey, call back this number for me. It's 649-9788.

PROCTOR: Mississippi number?

WS: Yeah.

PROCTOR: All right, just hold on here, and we'll dial it for you.

WS: Okay-

PROCTOR: Do not-

WS: Use the WATS- Wait, is the WATS line open?

PROCTOR: No.

WS: Okay, it's not open. Just go ahead and dial that number then for me.

PROCTOR: Okay, hold on-

WS: Six, four, nine, nine, seven, eight, eight.

PROCTOR: Got you.

UM: Hello.

WS: Hello.

UM: Are you there?

WS: Yeah.

UM: Did you get what I sent you?

WS: Yes, I appreciate it.

UM: Wasn't anything. It, it was just ah- That was like chumming when you go fishing.

WS: Yeah.

UM: The ah- What I found out is when they originally executed that thing in eighty-one-

WS: Uh-huh-

UM: That that is- That was about the second or third copy that was done. The first one had the correct date and was witnessed by a lady that didn't go to work there till eighty-one. So tie everything into the, into the time frame when, you know, when my people tell me.

WS: Oh, so this is a corrected copy we're looking at-

UM: That's what's on record.

WS: Yeah-

UM: That's what- That's what-

WS: Right, okay, I know-

UM: Finally hit the courthouse.

WS: Okay, right, okay, I know that, okay. Okay. How 'bout ah, you know, how 'bout the third well. You gonna be able to come up with anything on that for me?

UM: Uh-huh. It's down in Mobile County, Alabama.

WS: Mobile County, Ala- Got a description?

UM: It's the Wilkie Gas Unit. Exxon's operating it.

WS: Wilkie, W-i-l-k-i-e?

UM: Right, uh-huh-

WS: Gas Unit?

UM: Right.

WS: Exxon? You have a, a range township-

UM: Range and town- No, but I can come up with it-

WS: Okay.

UM: I'm pretty sure I can. I can go back through some of this-

WS: Okay-

UM: Some of my notes and come up with that.

WS: That is tremendous.

UM: Okay, now what, what needs, what you gotta do is- We gotta come up with the original copies that were done, and they're still in existence, that when, when they originally executed the thing and set it up is eighty-one-

WS: Uh-huh-

UM: It was sent to Ingram's office.

WS: Un-huh-

UM: Okay, INGRAM sent it back and says wait a minute. This shut, you know, this is right here at this time when all this is going on-

WS: Uh-huh-

UM: So we need to backdate it.

WS: Okay.

UM: Okay, he sent it back to FAIRCHILD, from what I understand, and they stuck it in the files.

WS: Okay-

UM: Then, then FAIRCHILD had 'em redo it and backdate it so it would show that they had done all this a year prior.

WS: Uh-huh-

UM: And then they ah- From what I understand, the instrument never was destroyed.

WS: It never was, it's, so it's still in FAIRCHILD'S office.

UM: It's still in existence.

WS: Where would it be in FAIRCHILD'S office?

UM: Probably in the, in the well files, from what I, from what they tell me.

WS: In the well, okay, okay. Ah, okay now, let me ask you. Are you gonna wait another two months to call me?

UM: I didn't have anything to give you. Plus-

WS: Okay, but-

UM: Plus something, something came up too.

WS: What came up?

UM: ROBERT WATKINS disappearing real quick right there, that same time.

WS: Wait, who's ROBERT WATKINS?

UM: The pilot.

WS: Well, he didn't disappear. Was ah-

UM: No, but he's the key that they're holding everything-

WS: Oh, okay, no, no, no, okay, yeah-

UM: Let, let me, let me explain it-

WS: Okay, go 'head-

UM: Just, just a second. I got somebody walking by here.

WS: Okay.

UM: All right. You've got a record network. You know, your deal in Lumberton that's going on with those folks down there?

WS: Uh-huh.

UM: You know your defense attorney now is the former district attorney.

WS: Yeah, okay.

UM: Okay, now there is, there is a regular network. Everything that you had, or whoever is handling that case had better stay very mum 'cause it's going right through the pipeline.

WS: Okay, how do you know that now?

UM: I can't prove it. It's, it's what I'm told. I'm in the same boat you're in-

WS: You mean, you mean-

UM: As far as-

WS: Somebody knows that we've got it?

UM: Got, which, which we talking about now?

WS: Well, okay, what- I'm talking about this case on the oil wells.

UM: Okay, on this one, I don't know if anybody knows but me or you.

WS: Okay.

UM: I hope nobody knows but me or you at this point-

WS: I, that's what we're trying to keep, that's what we're trying to keep down right now.

UM: Okay, but, from what I understand from some of the folks that work out there that ah INGRAM put a squeeze on FAIRCHILD recently for more money-

WS: Uh-huh.

UM: Ah FAIRCHILD refused.

WS: Uh-uh.

UM: Ah, guess who showed up in FAIRCHILD'S office within ten minutes.

WS: Who?

UM: HOLMES. This was back while he was still district- This was prior to Christmas, prior to his leaving office.

WS: Uh-huh.

UM: And from what I understand, ah he laid down the law about we don't complain about anything.

WS: Uh-huh.

UM: But now this is all, you know, people listening at doors and stuff like that-

WS: Yeah-

UM: You know, just when the hollering starts.

WS: Right, okay-

UM: So it- I don't know if you can use any of that.

WS: Okay, look here. Let, let me, let me bring you up to date now. Ah, remember I gave you the name of a fellow from the Justice Department.

UM: Yeah, you gave me Deputy District Director or something-

WS: Yeah, right, BOB RICHTER.

UM: Uh-huh.

WS: Okay. I've already been to Washington once on this thing to talk with him. He's coming down here to Jackson tonight, and we're gonna be meeting again tomorrow all day. So, I, I'm telling you that just to let you know that we're moving forward on this thing-

UM: For me to shake the bushes and come on out.

WS: Well, we need, you know, we're getting to that point. Now let me, let me bring you further up to date. Okay, we have ah, you know, we've got everything that Getty has.

UM: Uh-huh.

WS: And based on what ah, you know, your identifying the second well in Covington County, we're in the process of getting-

UM: L, the L, the L. D. Ross Well.

WS: Yeah, what, what ever it was the name of it, but that's a Union Oil Company well.

UM: Right.

WS: And, and we've gotten that too. Now you've given us this third one, and we'll be able to get that without any problem, I'm sure. Ah, we're reaching the point where we're running out of things that we can do ah covertly, and we're gonna have to-

UM: I can-

WS: And, and-

UM: Well, let- How much, how much can I do before I, before it becomes part of what you do if you, if you understand what I'm asking you-

WS: Get some more correspondence if you can.

UM: Oh, how, how much, well-

WS: Anything.

UM: What if I can, if I can get those instruments-

WS: Yes.

UM: Okay, but now-

WS: What, what, wait, get the instruments that are, the original ones.

UM: Will they kick it out if I do that?

WS: It, it'll be most interesting. Anything you can do along those lines'll be good.

UM: Well, let's just put it this way. You ask no questions, I'll tell no lies.

WS: Yeah, okay, ah- Okay, let me, let me do this while I, I got you on now. We, in looking at the records, ah, you know, we got some names on there, you know. BILLY RILEY, you told me to stay away from him.

M: Yeah.

WS: Ah, okay, another witness on him was R. L.

JARVIS who's listed ah on correspondence as administrative assistant to the old man, I guess.

UM: Uh-huh.

WS: Is he still there?

UM: No.

WS: He's gone?

UM: Uh-huh.

WS: Okay, does he know 'bout- Well, he'd know about all this, wouldn't he?

UM: Uh-h uh.

WS: Okay, now, LYNETTE SMITH is listed as the notary on the two documents, on the two deeds that we have. Okay, now, on some of the ah correspondence going from FAIRCHILD to Getty, it's signed by LYNN S. JONES. Now my guess is that's the same as LYNETTE SMITH.

UM: Right.

WS: Is that the same person?

UM: Uh-huh.

WS: Okay.

UM: She married in the, in the meantime there to a man named BILL JONES.

WS: BILL JONES?

UM: Uh-huh.

WS: Does he run some restaurant down there?

UM: Not that I know of.

WS: That's her husband though, huh? What's he do, do you know?

UM: No, I'm not familiar with him.

WS: Okay, now, ah, there's another name on the letterhead for FAIRCHILD. It's VICTORIA BURT, assistant manager. Who in the heck is she.

UM: Okay, she left there, oh, hell, she left FAIRCHILD back, three, four, five years ago. She's out in Houston now.

WS: Okay. She's not part of this. I mean, her, her name was just on the letterhead. It's not part of any correspondence, or she's not listed as a witness anywhere-

UM: No, if, if I got my date straight, she was gone before any of this ever came up, before the original arrest or anything about-

WS: Okay, now, in trying to construct this whole thing, ah, you know, you know, all I could do was speculate because I don't have access to the people or things that you have access to. In looking at this thing, the people who I would think that would have information ah, you know, that could help us out would be this gal that was a notary, because she would be a party to the backdating.

UM: From what I understand, she's still there though. She may-

WS: She's still there. I'm sure she is.

UM: She, yeah, she may be, she may be shaky.

WS: Okay.

UM: I think-

WS: And okay, how 'bout this R. L. JARVIS?

UM: He may talk to you. It, you'll have to, you'll have to hit him just right though.

WS: What kind of a guy is he, I mean, old, young, or what?

UM: Mid-thirties, early forties.

WS: What's he do now?

UM: I'm not sure.

WS: But is he still down around Hattiesburg?

UM: Uh-huh.

WS: Ah, you know, the problem is this. I don't wanna go- You know, if we go to the wrong person first, then that's gonna open up everything way ahead of time, and some documentation that we wanna get might disappear-

UM: Uh-huh-

WS: So that's what-

UM: Yeah, we talked about that the first time.

WS: Yeah, and that's why I need your help and, you know, even if- You know, if, if you could say, hey, you know, for, in the example of R. L. JARVIS, he'll say, ah, he'll talk, he will talk with you or he won't. You know, at, at least- I feel like a blind man. You know, I know that there're about four or five people, key people, that we need to talk to. Ah-

UM: Okay-

WS:	But, but it's probably four out of those five will never talk to us, and I don't wanna talk to the wrong person off the bat.
UM:	Okay, well let me, let me see what I can weasel in there, and I, I know a couple of 'em.
WS:	Okay-
UM:	And-
WS:	I mean, I, but I would guess that you must know a couple of 'em.
UM:	Ah, plus I'm picking some mutual friends of ours from some things that have been said. So it's, you know, I'm picking up bits and pieces, but everything, the whole puzzle fits.
WS:	Yeah.
UM:	Now, let me, let me tell you what was speculated to me. You know, you had asked me the question why, back, the last time we talked in November.
WS:	Uh-huh.
UM:	Okay, from what I understand, back in the seventies, ah the son and the father were working together.
WS:	The FAIRCHILDS?
UM:	Right, the were, they were both operating there. He moved the son out to the airport, got him set up to where he ran the airport out there.
WS:	Uh-huh.
UM:	Which is when the stuff really started.

WS: Uh-huh.

UM: And just that, and now just, just ah total speculation-

WS: Uh-huh-

UM: Was that after it got started when-

WS: What are you talkin' 'bout, narcotics?

UM: Uh-huh.

WS: Okay-

UM: Bringing it in-

WS: Yeah-

UM: Using Hattiesburg for refueling spot-

WS: Okay-

UM: Okay, now, there's more speculation to it, in that, ah when the radio came on that ah, that, that the customs people had somebody corralled down there-

WS: Uh-huh-

UM: The two folks were out there, the son and the other guy that, the one that ran to the woods, his name was BOB ROYALS, the one they never caught.

WS: BOB ROYALS.

UM: Uh-huh-

WS: Okay.

UM: Okay, now- Boy, I tell you what, I feel like DICK TRACY, you know.

WS: Okay.

UM: Okay, what happened was ah they set that up several years ago-

WS: Uh-huh.

UM: And speculation is is that the current mayor in Hattiesburg is a business associate. They actually do oil business together in, like in a partnership-

WS: Uh-huh-

UM: With FAIRCHILD-

WS: Uh-huh, legitimate business-

UM: Uh-huh-

WS: Okay-

UM: I, I assume so-

WS: Okay.

UM: But ah, from what, from what speculation was to me is that you're sittin' out here and all of a sudden the peopele that are under your control have somebody corralled out there-

WS: Uh-huh-

UM: Best thing to do is go ahead and pop 'em in your own jurisdiction so you can control it.

WS: Oh, sure, right.

UM: So that's how come they got it. Then, then the local district attorney and INGRAM, and all that- Have you figured out any way of tying BILL PORTER'S disappearance in with any of this?

WS: Well, I wanna tell you somethin', ah, and you'll get a big laugh out of this, but ah, about a month after BILL PORTER disappeared, ah, you know, and I was wondering why ah, why you hadn't contacted me, you know, as, as you sai you were going to. Wait, let's see, I talked to you on November seventeenth, and you were gonna call me the followi Thursday-

UM: I was and then they brought ROBERT WATKINS in, and he disappeared, and I thought, oh, hell.

WS: Okay, well see, I didn't attach any significance to that WATKINS thing, be I, you know, being down on the coast, didn't hear about it-

UM: Yeah-

WS: But then when PORTER disappeared, and I thought about it, and I, and then a time went on, I began to think, my Go you know, maybe PORTER'S the guy that been calling me.

UM: No-

WS: Okay. Obviously not-

UM: Obviously not-

WS: Obviously, I mean, but then we immediately checked and verified tha happened the first week in November, ah-

UM: But, but, you, through that, I hope PORTER makes you understand why I, I kinda staying in the shadows-

WS: Sure, I understand that. Do you, okay, let me, you know, I gotta ask you again, you know, I, I still would like to, I'd still like to meet you.

UM: You will-

WS: Ah-

UM: Eventually-

WS: Okay, I mean, ah, but I, I definitely want- Even if you have nothing to tell me, I, I just definitely need for you to contact me on a regular basis. Ah, because I'm gonna have bunches of questions, and even though you might not have somethin' new, I would still- You're, you know, you're a sounding board for me anyways, and, and ah we're gonna be diggin' up stuff that maybe you can answer-

UM: Did you-

WS: For us-

UM: Did you check any of that ah stuff coming out of, out of your New Orleans office where they were checking him for, for the deal. Supposedly some doctor in, in ah Meridian what's that guy-

WS: No, no, see we've been, we have not done that. Ah we, we've not, we have been keeping this as close as possible. Now do you-

UM: Okay, well you think we-

WS: Ah, I mean this, this case is not- You know, people in this office don't know about it-

UM: Super-

WS: Except my boss-

UM: Okay, super-

WS: I mean, so that's why we-

UM: Who, who's your boss?

WS: WELDON KENNEDY.

UM: Okay, now he, you're, you're sure, you're positive for sure that every, that's okay?

WS: Yes.

UM: I'd better be.

WS: Okay.

UM: I know you better be.

WS: I mean, gees, ah-

UM: Because both of us may have a problem if you're wrong.

WS: Yeah, well this, you're, you're right. I mean ah-

UM: If it was, if it wasn't the big one who involved in this thing, it wouldn't bother me a bit.

WS: Yeah.

UM: But we're talking 'bout somebody that's heavy.

WS: Yeah, okay, I know it. I realize. Okay, listen, another thing- I, 'cause I've been- In anticipation of your call, I've been written, got some questions here. When you told me that this whole deal was planned back in either January or February of 1981-

UM: It was put together in February of eighty-one.

WS: February of eighty-one-

UM: Uh-huh-

WS: In, in FAIRCHILD'S office?

UM: Okay, INGRAM came out, and- Okay, the way I have it is INGRAM came- Well, probably the best way to do it is just to put you in touch with the person that explained it to me.

WS: Okay, that, that would be great.

UM: You say RICHTER is gonna be in Jackson tonight?

WS: RICHTER is coming in tonight.

UM: Where are you gonna be tomorrow?

WS: I'll be right here tomorrow.

UM: Okay, any chance for-

WS: I'm staying at the Holiday Inn Downtown tonight, and I'm in Room 722.

UM: Okay.

WS: At the Holiday Inn Downtown. Now RICHTER is gonna be there too, but his plane doesn't get in from Washington till late.

UM: All right, just a minute. Let me write this down. What about in the morning?

WS: Okay, in the morning, first thing, we're coming back over here to the office.

UM: Okay, I gotta, I'm gonna make a note.

WS: And you're welcome to join us.

UM: Seven, twenty-two?

WS: Yeah.

UM: Okay.

WS: That's tonight now. And I mean, I'll be, I'll be in my room outside of, you know, when I'm out gettin' something to eat.

UM: Okay, tomorrow morning would be better for me. I've got one or two customers I've got to see this afternoon-

WS: Okay-

UM: Before I leave here-

WS: Okay.

UM: Ah, I may just go ahead and come to Jackson in the morning. Ah, you, RICHTER knows that everything is quiet, totally quiet?

WS: RICHTER knows that everything- He, he knows everything. Everything is totally quiet. Now everything has been explained to him. That's why my boss and I went to Washington on January 16, and we sat down with him and explained everything to him, and he's coming down here. Now, now there's a lot more to it than what you and I know.

UM: I know that.

WS: Ah-

UM: Listen, one other question that's bothering me. You know that first day when I called up there and talked to the, to the man that was formerly in your office?

WS: Yeah, well, he was over in the Mobile- He is a former agent of the Mobile office.

UM: Okay, I didn't let any cats out of the bag there, did I?

WS: No, uh-uh-

UM: Okay-

WS: I don't know why, 'cause he never wrote anything up. He just called me.

UM: Okay, okay.

WS: That's all.

UM: 'Cause I originally contacted the Washington Office, and I thought well gosh, if he went back and-

WS: Yeah, no, no- All, all it was, you called me, and then, you know, when you said you'd called ah, what the heck, was that TERRY ROSS, I think?

UM: Yeah, TERRY ROSS.

WS: Yeah, TERRY ROSS. Then I called him back up, and I said you know, hey TERRY, you know, I talked with him, and he told me how that transpired. There's no problem there at all.

UM: Okay, super-

WS: None whatsoever.

UM: What if I just see if I can't get in touch with you tomorrow, and you, you get RICHTER, and y'all just wonder away from the office for a little bit.

WS: We can handle that.

UM: Okay.

WS: We can handle that ah without any problem. Do it- Now I don't know when his ah, ah plane goes back to Washington. Ah, I'm just- It'll be some time tomorrow, probably tomorrow afternoon, late.

UM: Okay.

WS: So try to make it in the morning if you can.

UM: It'll have to be in the morning for me, or, or I'm gonna throw my whole schedule off.

WS: Okay. Okay.

UM: Okay, I-

WS: That'll be super.

UM: I will not bring everything that I've got. I'll bring Xeroxes.

WS: Okay, okay.

UM: So ah, so- And I'm trying to figure out some way of gettin' you that other stuff tonight. You ask no questions, right?

WS: I'm not asking any questions.

UM: Okay.

WS: I'm not gonna ask any questions. And call me, and I tell you, we can walk away from the office, and, and if need be, we could meet back in the motel, you know, over in my room, 'cause that's just two blocks away.

UM: Okay.

WS: And that would be private.

UM: Okay, I'm familiar with the, with downtown Jackson.

WS: Okay, you know where the Federal Building is.

UM: Yeah, uh-huh-

WS: Okay, well-

UM: On Farish Street-

WS: Our office is on the fifteenth floor, the very top floor.

UM: Okay, I probably won't go there-

WS: Yeah-

UM: I'll probably just call you and tell you, tell you where I am.

WS: Okay.

UM: Ah, no particular time in the morning. Ah, you're sure he'll be in there though.

WS: He'll be here, unless, unless he gets delayed, doesn't come in, you know, tonight.

UM: Okay, well-

WS: Or something, but he's coming tonight. That's why I'm up here in Jackson to meet him.

UM: Okay, well, what else do I need to do between now and then?

WS: Ah, my gosh, I can't think of anything, ah- Okay, but going back to this meeting now. I want you to be thinking this here. Ah, what we need to find out, what we've got to pin down- We can, we're not gonna have any problem proving that the judge received royalty payments. Ah, incidentally he's not receiving any directly from Getty.

UM: Oh, he's not?

WS: No, ah-

UM: When did they change that, 'cause it was originally set up, from what I understand-

WS: Well, that's what they wanted to do, but ah- You, you remember you told me about there was a ah, a problem or something that was alluded to in one of the letters.

UM: Oh, yeah-

WS: Okay, well that problem was that ah FAIRCHILD- That royalty ah portion was in his name as an individual. It was not in the name of the construction company.

UM: Right.

WS: And what he was trying to do, the, the royalty deed override was from the construction company to the judge. Well, that was not legal because the construction company had no interest in that well. This was the one in Marion County.

UM: Okay.

WS: So that was a discrepancy, and, and we know for a fact that the judge never got a royalty. So obviously what happened is, is they just wrote the checks out of FAIRCHILD'S office.

UM: Okay, now-

WS: You-

UM: No, that, that means that two of the checks will be coming out of FAIRCHILD, the construction company account, and one will be coming out of, out of FAIRCHILD'S personal account 'cause the ROSS was, was one directly from him.

WS: Okay, now listen. I don't know about Union, I don't know whether ah Union was sending royalty checks to the judge. We haven't checked that far yet.

UM: No, no-

WS: They're not-

UM: No, no-

WS: Okay, how 'bout the Exxon one now?

UM: Ah, no, that's coming out of FAIRCHILD'S office-

WS: Okay, so they're doing all of 'em out of his office.

UM: From what I understand, there's a file in BILLY RILEY'S office that has all those payments and all set out in a, in an accounting on that well.

WS: Okay.

UM: All that stuff is in there office though. How in the world are we gonna get in there and get it.

WS: Well, don't- You're, you know that the- You know, these are things that we can get with a search warrant or and/or a subpoena, but these are things that we've got to ah, you know, we don't- That's why we don't wanna talk to the wrong person at the wrong time. You know, we wanna talk to people who are gonna be cooperative and then we can get the subpoenas and the search warrant, and we can go right there and pick up what we want.

UM: Okay, well how, because of, you know, when we talked last time, we talked about Judge COX having this particular case.

WS: Yeah.

UM: Can you put anything with that?

WS: Okay, that, we're trying- Okay, this is the, the time frame. Okay, Judge COX- The, the arrest took place August 4th, 1980.

UM: Uh-huh.

WS: Ah, FAIRCHILD was not an arrested at that time, I don't think. I think his arrest came two or three weeks later, I believe-

UM: Right.

WS: I'm not real sure. Okay-

UM: Right.

WS: Two of the guys were an, they appeared in Judge COX'S court. They pled guilty. They were both fined and received five year jail sentences. Okay?

UM: Right.

WS: Okay, then we know that in November of 1980- Just as- August, September, October- three months later ah BILL PORTER and DREW FAIRCHILD go to the U. S. Attorney's office in Jackson, and they arrive at what is known as a memorandum of understanding, which, in effect, is ah kind of a plea agreement. And that is signed. Okay?

UM: Right.

WS: Okay, then at some- This is another thing that we've got to try to explore- At some point in the not too distant ah future, after that November meeting in the U. S. Attorney's office, that, the U. S. Attorney turned the entire case over to BUD HOLMES.

UM: Right. Keep talking-

WS: And then it was, then I think the next date we have is something like August of 1981 when ah it goes to the grand- We can document that part, but what, what we're trying to find out, and what we can't find out right now is what prompted the U. S. Attorney to suddenly turn this matter over to BUD HOLMES when the U. S. Attorney appeared to have the whole case wrapped up. That's, see that's a question in my mind. You know, I mean he had the whole case wrapped up, because number one he had- Two of the guys had already pled guilty and been sentenced in federal court before Judge COX. The third guy, FAIRCHILD, had already signed a plea agreement with the U. S. Attorney's office, and he agreed to testify, I think, against ah watkins or somethin', so then it gets back down to ah, ah- For some reason or other, the U. S. Attorney decided that he didn't wanna proceed with it. He wanted to send it back. Now that's-

UM: Now do you understand-

WS: Is that what the judge did?

UM: Now do you understand why my, why all of a sudden my ears perked up, and I started-

WS: Sure-

UM: Puttin' two and two together?

WS: But see, these are things that we have got to- Now, that's why it's important for us to go back to that original meeting in January- When you say it was, January or February 1981-

UM: MARGARET BUCKLEY was the one who, who can put INGRAM, NIXON and FAIRCHILD, all three together in, in FAIRCHILD'S office.

WS: You, and, and you think she might talk with us.

UM: She might.

WS: Okay.

UM: I don't think she would go to 'em. She may, she may clam up on you.

WS: She still works there though.

UM: Yes.

WS: Okay, but she can- I wonder if she was present during that meeting.

UM: No, but her office is right outside his office.

WS: And it's possible that she-

UM: Right-

WS: Coulda overheard something-

UM: Uh-huh-

WS: Okay, and I wonder if they're, I wonder if they take any kind of minutes or anything, probably not-

UM: Are you kidding?

WS: Well, you never know. Some of these people are so doggone, you know, legalized that they just might make a little notation of what transpired.

UM: No, but ah, from what I understand, when the instrument came up, ah, INGRAM was present when the, when the information went down as to what to draw up on those assignments.

WS: Yeah.

UM: And then, you know, they were delivered, and they were sent back, said no, we can't take 'em, we gotta backdate 'em.

WS: Okay.

UM: Because it's, you know, and then, then the instruments were all backdated.

WS: Okay.

UM: But see, see, the notarized- You ask, you question the notary. The notarized, the original date-

WS: Yeah.

UM: By, by LYNN SMITH.

WS: Uh-huh.

UM: And then, then they're backdated and notarized in the backdate by LYNN SMITH.

WS: Yeah, well, see she's right. She is gonna be right in there. I mean, she's gonna have to be able to answer why they backdated those things.

UM: Uh-huh. Well, the thing, the key to show which one is proper is when you put it, when you bring out the original one-

WS: Uh-huh-

UM: And you look at it, and you see that it's got a witness of a lady-.

WS: Uh-huh-

UM: Who didn't start working there till January of eighty-one.

WS: On the original one.

UM: Right.

WS: Yeah, boy that's interesting-

UM: Right-

WS: Okay, yeah-

UM: So see that, that right there-

WS: That-

UM: With the notarized- See, FAIRCHILD

WS: Yeah-

UM: Signed it and witnessed, the whole nine yards-

WS: Yeah-

UM: And you put it in there-

WS: And then she knows-

UM: And then it's backdated, and the one that you, that you have a copy of sudden, you know, is, is the one-

WS: That, that's, yeah, that's the one that's a remake of it.

UM: Right.

WS: Okay. Now who, who was the lady that signed that one?

UM: Her name was SHERRY BURNETT.

WS: Would she talk to us?

UM: She may, she may-

WS: Where is she now?

UM: Last I heard of her, she- Well, let me see, she's from Waynesboro.

WS: Uh-huh-

UM: She, her husband's name is DAVID BURNETT.

WS: Uh-huh.

UM: Now last I heard, they had gone to South Louisiana, and he's working as some kind of a securities broker for ah some, some outfit out of New Orleans.

WS: Uh-huh, okay.

UM: Wait a minute, First Jersey Securities is who he was working for.

WS: Okay-

UM: So-

WS: Okay-

UM: You, you might be able to use that to track her down.

WS: Okay.

UM: But she went to work, from what I understand, January of eighty-one.

WS: Okay.

UM: And then this thing was done in, in February of eighty-one.

WS: Yeah.

UM: So actually what you gotta do is just show, you know, just get her to say where she went to work, or when she went to work-

WS: Exactly-

UM: And for sure she couldn't have-

WS: Couldn't possibly, yeah-

UM: They couldn't have been done in eighty-

WS: But, 'course we need that original document-

UM: Right-

WS: To make any sense out of that.

UM: Right.

WS: All right, sir.

UM: Let me see what I can do on that, and, okay, anything else?

WS: Ah, no, you got my head swimming right now. Let me see here. Who was president- Okay, we got that. Let's see here. Exact location of pertinent documents. You know, we need to know that, you know-

UM: Okay, everything like that or, or that, the files are set up ah by well.

WS: Uh-huh-

UM: So you're gonna have ah, like you're gonna have an L. D. ROSS file. You're gonna have a, ah-

WS: Okay-

UM: Ah, ROGERS-

WS: Okay.

UM: Well file, like so-

WS: Okay, how, okay, how 'bout in ah, ah CAROL INGRAM'S office. Is there anybody over there that, that we could talk to?

UM: I had one, but he's clammed up on me. I, you know, I-

WS: Well-

UM: I don't know if I was prying a little bit too much. 'Cause see, this thing came up just before Christmas where the, the price went up-

WS: Uh-huh-

UM: And that, that's when HOLMES came in like calvary to explain it to him why he best not do that.

WS: Yeah, okay-

UM: So ah, my boy might have, might have put two and two together and said, you know, he may have kinda gotten wise to me.

WS: Okay.

UM: Asking some questions.

WS: Okay. Look here. What time are you gonna call me tomorrow morning?

UM: What time you want me to call you in the morning?

WS: Well, I mean, ah you call me any time.

UM: Well, I, I figured what I'd do is just wait till after I got to town.

WS: Okay.

UM: And, 'cause, you know, I won't be in Jackson tonight.

WS: Okay.

UM: And I'll just, I'll just run on over there in the morning.

WS: Okay, that'll be fine. Just call me right here at this number.

UM: Okay. Is there anything else now? I wanna try and make sure I've got all-

WS: All I've got-

UM: The whole nine yards put together.

WS: Okay, the main thing is, boy, I, I tell you, don't, you know, call me tomorrow even if you get waylaid somewhere and you're not gonna make it over. Call me and say hey, I can't make it or something, and, you know, and you and I are gonna have to work out some kind of a deal where ah, you know, I know you're gonna call me come hell or high water-

(Interruption- End of Side A of tape recording).

-Know-

UM: Because once he, once he get, you know, once the trial's put on, the testimony is there, it's time to sentence.

WS: Exactly right-

UM: They, they've already got-

WS: But see, but the interesting is they've got enough on FAIRCHILD that they could sentence him anyways. They can go ahead. They don't-

UM: But they won't-

WS: Have to wait till he testifies against-

UM: But they won't do that. That's the excuse-

WS: I know it. That's the excuse. I agree with you-

UM: They already tried to pass the case to the files.

WS: Yeah-

UM: And DICKEY-

WS: I, I know-

UM: DICKEY McKENZIE made that comment in front of that, in front of that reporter that just perked up on it and took off and ran with it and got him-

WS: Right-

UM: To reschedule it.

WS: Okay. I-

UM: See, they've already tried it one time.

WS: Yeah, I know it. I know it. We're, we're staying on top of that business.

UM: Okay.

WS: Ah-

UM: I'll just-

WS: Okay, you try, you gonna try to get some paper work on that third well for me. I mean if you can't, if you can't, no problem, we'll look it up because my guess is that the darn thing is dated in ah, is dated the same way, you know, February, eighty, or, and, and ah it's gonna be filed on or about April-.

UM: All, all-

WS: Sixth, eighty-one-

UM: All three were done the same time.

WS: They were, they had to be.

UM: See, INGRAM, In- All the instruments were delivered to INGRAM.

WS: Uh-huh.

UM: INGRAM handled the whole, you know, the whole setting up for the judge.

WS: Yeah.

UM: There are notes in the file, from what I understand, where INGRAM called over there wanting them to get judge in a pay status.

WS: Yeah, yeah, okay. Well, you know, it looks like he, he got ah, oh, probably ah from each well, you know, twenty thousand a year or something.

UM: No, the first payment on the Wilkie was close, was 'bout nine thousand dollars.

WS: Okay, okay, well. See, we, you know, we got a long way to go, but we, you know, we've covered a lot of ground, and, you know, the sooner we can talk to people, the better off we're gonna be.

UM: Okay. Well, let me- I've got to figure out tonight some way of getting that stuff out of that office. out of those well files.

WS: Well, don't, I don't know where it's coming from, so just ah, you know, however, you know, whatever you're getting, you know, don't do anything that, that would not be-

UM: Well-

WS: Illegal, 'cause we can-

UM: Well if-

WS: We could do it legally later.

UM: If an employee hands it to me, that's not illegal is it?

WS: No, I guess not.

UM: Okay, I didn't think so-

WS: I mean ah-

UM: Got to go and sweet-talk some employees.

WS: Okay, well, you know, if you, if you have, but you know when you sweet-talk somebody and they're turning that stuff over, ah, see if you can't sweet-talk ah somebody into talking to us.

UM: Okay. Okay, so you're just gonna- All right, now how busy is your schedule tomorrow?

WS: I, I'm gonna be with RICHTER all day long.

UM: What, is he still-

WS: Until he leaves-

UM: Did he come down here for something else, or, did he-

WS: No.

UM: This is it.

WS: This, this, this is it. Okay, but as I say, this is a percentage of an overall picture.

UM: Okay.

WS: Okay?

UM: Super-

WS: And, and he's down here, he's coming down here with two other attorneys from his section up there.

UM: Okay.

WS: And ah, they're all working on different aspects of this thing, but, you know, it's more than, you know, for- It's things that you and I don't even, won't even know about.

UM: Oh, I, I-

WS: But it's all-

UM: I have suspicions that the population of South Mississippi will probably drop drastically.

WS: Well, that's- So anyways, ah, ah, that's, that's why it's terrific that you called. I mean, God, I, you know, I wouldn't ah- It's great that you called-

UM: Well, well, when that thing happened back in November, I got scared.

WS: Okay, that explains, okay-

UM: And, and so I'll just see you some time in the morning and ah-

WS: Call me here, let me know where you are, and you know my room number, 722, and-

UM: Okay, I may not wanna go there. I may wanna go some place where we can sit down and have a cup of coffee and just kinda bat everything around.

WS: Okay, but the problem with that is it's hard to do in a restaurant with people around. We'll do it. Doesn't make any difference.

UM: We'll cross that bridge when we come to it. We may just meet-

WS: Fine-

UM: Just meet in the restaurant at Holiday Inn.

WS: Good, whatever-

UM: Make it, make it a Big Mac at McDonald's right next door to you.

WS: Okay.

UM: Okay, but I'll see you some time in the morning then.

WS: Good enough.

UM: Okay, thank you a lot-

WS: Okay, thank you a lot-

UM: Bye now-

WS: Bye.

D-302 (REV. 3-8-77)

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 22

EXHIBIT
Respondent's
Exhibit 22

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/11/84

WILEY FAIRCHILD, owner, W. R. FAIRCHILD CONSTRUCTION COMPANY, Highway 49 North, Hattiesburg, Mississippi, was interviewed in his offices. He was advised of the identities of the interviewing Agents and further that a friend of FAIRCHILD's, JOHN BALTER, had reported that FAIRCHILD had information indicating he was being extorted or blackmailed by unidentified persons.

FAIRCHILD advised JOHN BALTER is a long-time friend who is currently doing lobbying work for FAIRCHILD in the MISSISSIPPI STATE LEGISLATURE. He stated about five years ago his son, DREW FAIRCHILD, was arrested on a narcotics charge involving an airplane which flew in to the Hattiesburg airport loaded with approximately 1,900 pounds of marijuana. FAIRCHILD commented that while his son had been arrested in connection with that airplane, his son actually could not have been guilty because he was home asleep in bed at the time the airplane flew in to the Hattiesburg airport.

Following the arrest of DREW FAIRCHILD, WILEY FAIRCHILD went to his long-time friend, "BUD" HOLMES, then Forrest County District Attorney, and asked for his advice. HOLMES suggested to WILEY FAIRCHILD that he should hire either WILLIAM F. PORTER or CARROLL INGRAM, both Hattiesburg attorneys. According to FAIRCHILD, HOLMES told him, "I think you'll be wanting PORTER." FAIRCHILD also implied that HOLMES, in addition, indicated there were other reasons why he should hire PORTER to defend his son; however, FAIRCHILD refused to divulge to interviewing Agents what these other reasons were.

Attorney WILLIAM F. PORTER was hired, and WILEY FAIRCHILD paid him a $2,500 fee to represent his son. Shortly thereafter, Attorney PORTER and DREW FAIRCHILD met in the Jackson, Mississippi, offices of U. S. Attorney GEORGE PHILLIPS, at which time a Memorandum of Understanding was drawn up wherein DREW FAIRCHILD agreed to enter a guilty plea to a charge brought against him in the narcotics case in exchange for his providing information of value to law enforcement authorities regarding narcotics matters. WILEY FAIRCHILD commented that following this meeting, Attorney PORTER folded up his copy of the agreement and put it in his coat pocket. In addition, at this point, DREW FAIRCHILD told U. S. Attorney PHILLIPS that when PHILLIPS wants to question him about knowledge of narcotics activities that PHILLIPS should be sure that he (DREW FAIRCHILD) is given a polygraph examination and truth serum because

Investigation on 4/10/84 at Hattiesburg, Mississippi File # JN 58B-109

by SA K. P. WHITE-SPUNNER, JR.
SA DONALD M. LAWLESS/KWS/mae Date dictated 4/10/84

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JN 58B-109

Continuation of interview of WILEY FAIRCHILD Page 2

he really will surprise PHILLIPS at his lack of such knowledge.

FAIRCHILD related that at some point later on, his son DREW was indicted by a grand jury in Forrest County, after which Attorney PORTER told WILEY FAIRCHILD that he wanted $7,500 more to take complete care of his son DREW's case. According to WILEY FAIRCHILD, Attorney PORTER indicated to him that for this additional sum, everything would be taken care of, and DREW FAIRCHILD would not receive a jail sentence.

Following this occurrence, on an unknown date, DREW FAIRCHILD, with attorney PORTER, and District Attorney HOLMES, appeared in Forrest County Circuit Court, at which time District Attorney HOLMES gave DREW FAIRCHILD "two minutes" to enter his guilty plea, which FAIRCHILD did on the recommendation of Attorney PORTER.

Within approximately two days of District Attorney BUD HOLMES' leaving office in late December of 1983, HOLMES contacted DREW FAIRCHILD and told him they needed to get together to take care of an agreement apparently reached between District Attorney HOLMES and Attorney WILLIAM PORTER (now deceased), which allegedly called for five years suspended, unsupervised probation and possibly a fine. DREW FAIRCHILD's reaction to Attorney HOLMES was that he knew nothing of such an agreement, and he refused to go along. DREW FAIRCHILD then came to WILEY FAIRCHILD, telling him what had happened, and WILEY FAIRCHILD contacted Attorney CARROLL INGRAM, telling him that he was tired of the case going on so long, and he had paid enough to Attorney PORTER, and if there were any more demands made upon him, he would go to local newsman MARVIN RUBIN and tell him the whole story. Shortly thereafter, District Attorney HOLMES and local attorney DICKY MC KENZIE, who was at that time Forrest County Circuit Judge elect, showed up in FAIRCHILD's office, during which meeting HOLMES told FAIRCHILD there was no need for him to go to the press, that he should let the matter slide on.

FAIRCHILD also related that during the above period of time, an unidentified friend of his was told by Attorney WILLIAM PORTER that if DREW FAIRCHILD would "get off of his money," he, PORTER, could get his case handled satisfactorily. The friend (who FAIRCHILD refused to identify to interviewing Agents) told Attorney PORTER that DREW FAIRCHILD did not have any money but WILEY FAIRCHILD does, whereupon Attorney PORTER allegedly dispatched this unidentified friend to WILEY FAIRCHILD with the same message.

FAIRCHILD has steadfastly stated he refused to pay any additional funds to BUD HOLMES or any other party in this investigation; however, he implied there are continued pressures on him to do so. He commented that his friend, JOHN BALTER, is supposed to approach the Governor of the State of Mississippi (BILL ALLAIN) and inquire whether ALLAIN would pardon DREW FAIRCHILD if and when he is sentenced in state court in Hattiesburg, Mississippi.

In addition, FAIRCHILD commented he has spoken to other persons described by him only as "some of the finest people in the State of Mississippi" on behalf of his son, DREW FAIRCHILD, but he refused to identify these persons to interviewing Agents at this time.

FAIRCHILD also stated that admittedly he is not now divulging all the information he knows of regarding this case or his allegations of blackmail or extortion to interviewing Agents at this time since he wants to discuss the matter with his son, DREW FAIRCHILD, prior to doing so. He indicated the visit of interviewing Agents was not planned and was entirely unexpected on his part.

FAIRCHILD was advised by interviewing Agents that the information he did provide, coupled with the information which he indicated he has but does not now wish to provide, gives the Agents no choice but to enter a full investigation of his allegations at this time. FAIRCHILD replied that he will talk to interviewing Agents again on April 11, 1984.

At the conclusion of the interview, FAIRCHILD furnished from his files a copy of a Memorandum of Understanding dated November 19, 1980, regarding his son DREW's meeting in U. S. Attorney GEORGE PHILLIPS' office. He also provided a photocopy of a "To Whom It May Concern" note dated June 20, 1983, signed by R. A. FAIRCHILD, without further explanation.

(REV. 3-8-77)

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT ________

EXHIBIT
Respondent's
Exhibit 23

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/17/84

WILEY FAIRCHILD, owner, W. R. FAIRCHILD CONSTRUCTION COMPANY, Hattiesburg, Mississippi, was interviewed in his offices.

FAIRCHILD was advised by interviewing Agents that following their interview of him on April 10, 1984, certain investigation was conducted to obtain facts regarding the background of the August 4, 1980, narcotics arrests in Hattiesburg, Mississippi, in which FAIRCHILD's son, DREW FAIRCHILD, was involved. FAIRCHILD was advised that FBI investigation had left unanswered one or more crucial questions, specifically as to why the Office of the United States Attorney had turned over the prosecution of DREW FAIRCHILD and subject WATKINS in the narcotics case to Forrest County District Attorney BUD HOLMES when the U. S. Attorney's Office appeared to have mainly handled the entire case satisfactorily through the Federal Court system.

FAIRCHILD was advised that this point alone strongly implied that some pressure or other influence had been applied on unidentified parties in the Federal sector to turn the case over to local authorities.

FAIRCHILD was further advised that an examination of Forrest County court records regarding the case against DREW FAIRCHILD determined that even though he was indicted by a county grand jury in August of 1981 and subsequently entered a guilty plea before then Circuit Judge JACK WELDIE, the District Attorney (BUD HOLMES) had subsequently filed a motion to have the case passed to the files, which motion was granted by Judge WELDIE in December of 1981. It was pointed out to FAIRCHILD that the obvious inaction by Forrest County authorities in the case against DREW FAIRCHILD also raised questions in this matter, all of which tend to support FAIRCHILD's previously-made remarks that he has been blackmailed and extorted by unnamed individuals as a result of the handling of the case against DREW FAIRCHILD.

FAIRCHILD immediately responded he knows why the case against his son was passed to the files by Judge WELDIE. When pressed for an answer by interviewing Agents, FAIRCHILD responded, "I threatened them," When pressed to explain this remark, FAIRCHILD stated that he did not threaten anyone "physically, nothing like that," but that he had contacted District Attorney HOLMES and Judge WELDIE and had told them if they did not take care of the case quickly and pass it to the files, he would never ever financially

Investigation on 4/11/84 at Hattiesburg, Mississippi File # JN 58B-109

by SA K. P. WHITE-SPUNNER, JR.
SA DONALD M. LAWLESS/KWS/mae Date dictated 4/13/84

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or otherwise support them or anyone they supported in any political endeavor in the future.

(During this and the April 10, 1984, interview, FAIRCHILD exhibited a propensity to boast about his money and power and his willingness and apparent ability to influence high public officials using his power. At one point, he searched through a desk drawer and took out a slip of paper and told interviewing Agents that both he and his brother, RODNEY FAIRCHILD, had supported the unsuccessful effort to run for governor of EVELYN GANDY to the tune of over $300,000.)

FAIRCHILD was advised by interviewing Agent that based on the information he has already provided plus his remarks that he would furnish additional pertinent information at some future date regarding his allegations of bribery and extortion, the FBI had no choice but to commence a "full field investigation" at this time which would include interviews of anyone and everyone deemed necessary by the FBI. FAIRCHILD was advised that inasmuch as he had indirectly brought the FBI into this matter that his assistance is being solicited. FAIRCHILD remarked that he understands and would reveal to interviewing Agents at some later date additional information he has.

FAIRCHILD advised that he is leaving the following day on a vacation and would return to his offices in Hattiesburg in approximately one week.

(Rev. -8-77)

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 24

EXHIBIT
Respondent's Exhibit 24

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/19/84

WILEY FAIRCHILD, owner, W. R. FAIRCHILD CONSTRUCTION COMPANY, was reinterviewed in his offices.

FAIRCHILD was advised by interviewing Agents that during the past several days in FAIRCHILD's absence from Hattiesburg, the FBI had been continuously investigating this matter and had caused financial disclosure documents submitted by various individuals in the Federal judicial sector, including the three Federal judges in the Southern District of Mississippi and the U. S. Attorney, to be reviewed. This review had developed documentation of a connection between Federal Judge WALTER L. NIXON, JR., and FAIRCHILD. FAIRCHILD's comments concerning this connection were solicited.

(When FAIRCHILD was advised of the foregoing, he became visibly upset; however, he grew momentarily silent before contacting his bookkeeper, Mrs. MARGARET BUCKLEY, requesting that she obtain certain unspecified documents.)

Mrs. MARGARET BUCKLEY brought in to the room a manilla folder which FAIRCHILD instructed her to display to interviewing Agents. This folder bore a file tab notation identifying it as relating to certain business with WALTER NIXON and the folder contained photocopies of three promissory notes, all dated February 25, 1980, a number of photocopies of checks apparently written by NIXON to W. R. FAIRCHILD CONSTRUCTION COMPANY apparently in payment on the promissory notes. In addition, there were two pink telephone call slips addressed to "SKIP" from BETTY LOU CLARK, all dated in 1982, and a double-spaced, one-page typed note from BETTY LOU CLARK to SKIP thanking him for some help in preparing interest payments.

While examining the file, Mrs. BUCKLEY also produced a ledger-type sheet which she indicated is a record of royalty payments to the FAIRCHILD company on the L. D. ROSS well in Covington County, Mississippi.

During this time, FAIRCHILD made a remark indicating he was not happy that the FBI was involved now in this investigation, whereupon interviewing Agent WHITE-SPUNNER pointed out to him in front of Mrs. BUCKLEY that, "After all, Mr. FAIRCHILD, it was you that had the U. S. Attorney contacted" regarding possible bribery and extortion relating to this matter. Immediately after Mrs. BUCKLEY left the room, FAIRCHILD, in a lower voice, told interviewing Agents that he does not want it revealed that he is responsible for contacting the U. S. Attorney.

Investigation on 4/18/84 at Hattiesburg, Mississippi File # JN 58B-109

by SA K. P. WHITE-SPUNNER, JR.
SA DONALD M. LAWLESS/KWS/mae Date dictated 4/18/84

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JN 58B-109

Continuation of interview of WILEY FAIRCHILD , Page 2

Interviewing Agents asked FAIRCHILD if he would object to furnishing copies of the documents displayed by him in the NIXON folder, at which time he remarked he was now sorry he had given Agents copies of documents during his previous interview, and prior to giving copies of any future documents he would like to talk to someone else. When pressed who this someone else would be he stated, "Wallace Gunn" (local attorney). FAIRCHILD then stated he may even go ahead and furnish copies of the documents no matter what Mr. GUNN advises him to do. He stated Mr. GUNN is home sick with the flu at the present time.

FAIRCHILD further identified the three wells involved as being gas wells located in Mobile County, Alabama; Covington County, Mississippi; and Marion County, Mississippi.

He again identified R. L. JARVIS as being the former employee who handled the NIXON transactions, and he is no longer employed by FAIRCHILD CONSTRUCTION COMPANY but is in Hattiesburg somewhere.

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 25

DEFENDANT'S EXHIBIT ~~44A~~ 16A

EXHIBIT
Respondent's Exhibit 25

JN 58B-109

(Note: This transcript will consist only of the pertinent parts of the tape recorded conversation).

R. L. JARVIS: My name is ROBERT L. JARVIS, JR. The following is a conversation I'll be having with WILEY FAIRCHILD on April the 18th, 1984, at the office of W. R. FAIRCHILD CONSTRUCTION COMPANY, LIMITED, which, of which WILEY FAIRCHILD is a general partner. That office is located on Highway 49 North in Hattiesburg, Mississippi.

The time is approximately 2:48 PM.

It's approximately 3:25. I've just arrived at FAIRCHILD's office, fixing to go in his private door.

Hey, MIKE.

MIKE: Hello.

FAIRCHILD: Come in. Come in.

LYNN: Hey (unintelligible).

JARVIS: Hey, LYNN.

FAIRCHILD: Okay, we'll ah (unintelligible). That's all right. (Unintelligible)

JARVIS: I don't know if MARGARET told you that I'd been contacted by some FBI Agents that want to talk to me about something-

FAIRCHILD: Yeah.

JARVIS: What's going on?

FAIRCHILD: It's that Judge NIXON stuff. Ain't nothing to it. Goddamn, it's all on a tape. We've got the notes in there. He bought it-

JARVIS: Okay-

FAIRCHILD: Everything is legal.

JARVIS: Okay. Well, you think everything's, everything is-

FAIRCHILD: Yeah-

JARVIS: In its proper place-

FAIRCHILD: Yeah, yeah, and it had nothing to do- They think because ah- They think because- What happened, CARROLL INGRAM and BILL PORTER and BUD HOLMES led me and DREW down Memory Lane or some goddamn blind alley and got him to plead guilty up there. You know about that.

JARVIS: Uh-huh.

FAIRCHILD: And ah then I don't know what happened. I know I didn't do anything. I didn't ask you to do any damn thing. I didn't talk to nobody about doing any damn thing. The next damn thing we knew he was indicted down here for the same thing, see. And this thing up there was ah, was for ah, was for ah fifteen thousand dollars, and ah, and five years suspended see. And ah this deal that I actually made, and ah-

JARVIS: Well what got them fired up all of a sudden about this after all this time?

FAIRCHILD: Ah, I made a damn remark about- They still trying to, were trying to- Well the day before BUD went out, just like you're going out of office tomorrow night-

JARVIS: Uh-huh-

FAIRCHILD: He called DREW and said I'm gonna (unintelligible), and I wanna carry the agreement we had outside. I talked with BILL PORTER the day he got drowned about it. No, he said BILL PORTER told me he wanted to get this thing, wanted us to live up to that agreement and get it over with, and so, and ah DREW said what was the agreement. That was just about this time of day. He said well five thousand dollars, my fine, or five thousand, five thousand dollars fine, five years unsupervised probation. And ah he says well I never heard of that, and he called me, and I called CARROLL. CARROLL says all I know- He's by this morning, asked would I stand in with his attorney, and I said well goddamn. The agreement was it'd go to the file. And, and then ah-

JARVIS: Well, they committed it to the file, didn't they. Who was the one that actually brought it back out?

FAIRCHILD: I don't know what happened. And ah so I said well CARROLL, I'm capable of going to MARVIN RUBIN with this whole goddamn thing. It's just blackmail. And I says I never been blackmailed, and I'm too old to start. And BILL PORTER said that thing going to the file. It's gonna stay there. If it comes out, we'll get it in federal court. So I called WALLACE GUNN, and he said yeah there are some that you can- In a case like this you can get it back in federal court. And ah he said I'm no criminal lawyer, WILEY. You need to get some- Who is a good criminal lawyer here beside ZACK (phonetic), JIMMY DUKES? It's not (unintelligible)-

JARVIS: I don't- See, the problem you run into there is, is JIMMY DUKES and BUD HOLMES have the criminal practice sewed up.

FAIRCHILD: No, there's another good criminal lawyer here.

JARVIS: I'll, I'll see if I can find out for you who, who would be good at that-

FAIRCHILD: Well, anyway, I know it. I know it, and so, so ah I told ah, I told ah, whoever, WALLACE told me who he was. So I told WALLACE the whole thing what I was threatening to do, see, 'cause BOB ROYAL was out there. They didn't indict him. It was blackmail from the word go.

JARVIS: Let me ask you a question, you do that-

FAIRCHILD: Huh?

JARVIS: If, if you went out there, that newspaper thing, aren't you a little bit worried about what HOLMES or CARROLL might end up doing? They may wanna play hardball on this thing.

FAIRCHILD: Well, how?

JARVIS: You've got two attorneys, who, if you bring charges like this against them or accusations, they've got a lot to lose, which means that you might be in the hotseat.

FAIRCHILD: Well, ah-

JARVIS: You know-

FAIRCHILD: Well, I'm just gonna tell 'em that DREW wasn't there and that the records that they got up there tell me and that DREW and BOB was in partners. They couldn't possibly ah, ah, ah, ah BOB ROYAL would have to know about it, see, and that ah, and that BUD HOLMES and, and, and, and ah BILL PORTER were the very best of friends, and ah, and that ah, and that it's my opinion, I believe he was indicted, but why, because, you know, and it's- I, I figure it was blackmail from the word go. And old, old BOB ROYAL sat right there and, and passed the thing on from BILL PORTER, and I said now BOB, I've got your message, but I said not no, but hell no. I said hell, if he have to serve time, he'll just have to serve. And ah so, and I told them FBI men that, and ah, so, but anyway this CARL KEPPER (phonetic), ain't there a CARL KEPPER? No, he's the one that-

JARVIS: CARL KEPPER. There's, there's-

FAIRCHILD: No, he's the one that committed suicide.

JARVIS: There's a, Mrs. KEPPER that's ah-

FAIRCHILD: No, that's another one-

JARVIS: That's a lawyer here-

FAIRCHILD: But anyway, let me tell you. This is all happened one evening, see. So I told WALLACE what I was gonna do, that I'd just been fucked around enough, and I'd been ah, and ah, that I don't know why that GEORGE PHILLIPS didn't carry out the thing, see, and I don't know why it, why it changed, and ah happened. I didn't know nothing about that, but that- But I says I just will die. I just think it's blackmail, and CARROLL INGRAM is deep into it as anybody.

JARVIS: Well, you know that day that the stuff came up on, on Judge NIXON where you had me draw up those assignments in blank.

FAIRCHILD: Yeah.

JARVIS: You remember CARROLL was here that day-

FAIRCHILD: Yeah-

JARVIS: Y'all had just gotten through talking about that. You know one thing, you know we talked about this about two years ago when I said we needed to be a little more careful with this stuff-

FAIRCHILD: Yeah-

JARVIS: Ah, you remember SHERRY was here at that time? SHERRY was one of the witnesses on one of those things, if I, if my memory serves me correctly. Now are they going back to all of the former employees?

FAIRCHILD: I don't know, and I don't give a damn. If I'da done somethin', if it'd been a payoff now-

JARVIS: Well, I'm, you know, I'm, you know, what I'm trying to say is if it looks like a payoff, they're gonna, they're gonna investigate it all the way to-

FAIRCHILD: Well-

JARVIS: To the bottom of it-

FAIRCHILD: Well, they sat right there this morning, and they said, well if there's some record of this- Did he get an assignment, did I, and ah, ah, and they told MARGARET the other night, the subpoena, (unintelligible) says yeah. They went out to her house and asked did we write any check look like would been a payoff to BUD HOLMES or GEORGE PHILLIPS and said- (Interruption for telephone call) says no-

(Non-pertinent conversation)

FAIRCHILD: And ah-

JARVIS: Oh-

FAIRCHILD: So WALLACE GUNN said get this lawyer, see.

And I says okay you, you ah call him. And ah so that got on 'bout- So DREW called him and told him what he wanted to do, go down there to get the file and file it the next morning. And ah-

JARVIS: Well, who's been handling DREW's stuff since, since BILL PORTER died?

FAIRCHILD: Nobody. And ah so the next morning I walked in here, and MARK says BUD HOLMES has called for you. I said well if he calls, just tell him I'm not in. He said he wanted to come out and see you. So, and I said well, you'll have to tell him I'm here. Well, hell, about 8:20 he walked in there, and they said BUD HOLMES. I said tell him to come on back.

JARVIS: He came out-here?

FAIRCHILD: Yeah, the next morning.

JARVIS: Well, now, that takes guts.

FAIRCHILD: And ah- Well, now, you're jumping to conclusions.

JARVIS: Yeah, I-

FAIRCHILD: You're just jumping, and it's the wrong way, just ninety, or a hundred and ninety degrees from what ah the truth is. And he had Judge McKENZIE with him. And they come in and sat down there, and he said well I want you to get in touch with DREW, and ah have him to lay low, play quiet, and ah when he got too (unintelligible), get excited. I can't remember what it said.

JARVIS: Right.

FAIRCHILD: But I had RODNEY in here. I says now BUD, just what do you recommend- Said just tell him to be quiet. Ain't nobody, just let this thing slide, ain't nobody after DREW's ass. Just be quiet. And I said well that's what I wanna do. Well, I think after this, after that ah- Yep, he told, he said just let it slide, says this media'll get a hold of this thing, and they'll blow it all out of proportion everywhere. And ah so-

JARVIS: Well, did he know about- You said that, that CARROLL had come out here. Did he know about CARROLL coming out here?

FAIRCHILD: No, CARROLL hadn't come out here.

JARVIS: I thought you said just a minute ago that he had.

FAIRCHILD: No, I called CARROLL that evening before. CARROLL says he wants me to come up there and stay with DREW while he's being sentenced, see. Well, what it was, BUD and CARROLL had just got together, see. And he was gonna call DREW, and they were gonna get it all cocked up, see. And ah, and I would pay off 'fore it'd go through-

JARVIS: So they were both catching you in the middle between 'em.

FAIRCHILD: Yeah. Okay, that stopped, but ah WHITE, not long ago, and ah called one of WALLACE's, was, was gonna be one of LA-WALLACE's law partners.

JARVIS: This is GLEN WHITE, took BUD HOLMES' place?

FAIRCHILD: Yeah.

JARVIS: Okay.

FAIRCHILD: Ye called somebody and says ah you need to come down, said you represent DREW. but ah some connection between this lawyer and BILL PORTER some way. He says you need to come down here and file this thing ah for continuance. If it don't, it'll have to come up.

JARVIS: So, so WHITE's willing to work with you to keep the thing just kinda-

FAIRCHILD: No, that- I blew my stack then, see.

JARVIS: Oh, okay-

FAIRCHILD: And ah, I blew my stack then, and- Well I'd done told CARROLL, and the next, after it's over, I said see, I told you it wasn't a goddamn thing but blackmail. And I said shit, I don't ah, and ah I says five thousand dollar fine, and five years unsupervised ah sentence- I says hell, I had that fixed before through some friend with WILLIAM WINTER, if what I was telling was the truth. And ah, and I had somebody up in Jackson and talking with some people, and another, among other people was ah, was ah Governor ALLAIN about the, about the pardon, see.

JARVIS: Well, if you've got that, can you just tell CARROLL and HOLMES to take a, take a fly and leap now then, just chunk them out the window?

FAIRCHILD: Well, yeah, yeah, yeah. It's still they're trying to blackmail. Oh, yeah, I left out the main thing. But when I called ah DREW back and he called CARROLL and asked him about ah that gettin' it in federal court, and he said well DREW, that'll take a lot of research, says I've done a hell of a lot of work on this damn case, says I've never been paid a damn dime. And that's what, you know-

JARVIS: CARROLL-

FAIRCHILD: It's just a-

JARVIS: CARROLL INGRAM is, you know, he had said somethin' that I talked to NANNY about one time that I didn't tell you. But CARROLL is not your friend. You know that now though-

FAIRCHILD: Oh, hell, I've known it for years.

JARVIS: Okay.

FAIRCHILD: I haven't just now- I've known it for years.

JARVIS: Okay.

FAIRCHILD: Hell, but ah-

JARVIS: Well, see, that's somethin' that, that scared me. When he was here- And remember we did that stuff to Judge NIXON-

FAIRCHILD: Yeah-

JARVIS: See this is what scares the hell out of me is, is that backdating for that year. I don't know how- I hope that's- You know, I don't know what that's got, and I don't wanna know-

FAIRCHILD: Well, ah-

JARVIS: But ah-

FAIRCHILD: We just, we, well-

JARVIS: Do you, are your records okay to-

FAIRCHILD: Well, now, I didn't know about the backdating.

JARVIS: Yeah, that was, remember when it came back from CARROLL's office.

FAIRCHILD: Yeah-

JARVIS: That ah, because it all came about DREW's time. Y'all, y'all had me do it back before then. Remember that?

FAIRCHILD: Yeah-

JARVIS: So if any question came up-

FAIRCHILD: Yeah-

JARVIS: 'Cause see, at that time, I didn't know it was going to the judge, and you just had me do 'em in blank, and then you-

FAIRCHILD: But the deal had already been made-

JARVIS: But see-

FAIRCHILD: We just dated it back to when it was made, see.

JARVIS: Okay, well that, that's what I was trying to figure, you know, not figure out, but make sure- 'Cause I don't want somebody coming in here saying well look at this. 'Cause that's the kind of stuff they're looking for. I, I think CARROLL help, left you hanging out there on that one, and I, you know, that's, that's-

FAIRCHILD: No, CARROLL was the one that ah, CARROLL was the one asked me to put the judge in a deal, see, I think. I don't, I can't remember who it was.

JARVIS: Well, CARROLL was the one that came out here and, 'cause you had me take all the stuff, and CARROLL was the one that kept calling me, telling me the judge wanted his money. And that's one of the reasons why I figured that they, that was part of the squeeze too. That's why I tried to talk to you two years ago about it.

FAIRCHILD: And BOB, that didn't have a damn thing to do with DREW.

JARVIS: Okay.

FAIRCHILD: Didn't nothing mention it in there.

JARVIS: Okay, well that, I was just worried for you.

FAIRCHILD: No, it, it wasn't nothing- It didn't have a damn thing to do- Was with, the, they, what- We hadn't got our money, and ah the well had been on stream, see. And that's ah not unusual for the damn well to be on stream for a year, see.

JARVIS: Uh-huh-

FAIRCHILD: And ah, and ah, but if it'd been a payoff, that'd been one thing.

JARVIS: Well, see, if they ask me about that, one, you know, if- I'm afraid that this might eventually go, you know, if they find enough stuff, they're gonna take it to a grand jury. And when they put us under oath, one of the things that's gonna come up is that those things were backdated, and that's why I'm sittin' here asking you, what are we, what do we do, and where are we going so we'll all go in the same direction. 'Cause, you know, you know what it looks like. What do you think?

FAIRCHILD: Well, I didn't know that the damn things were backdated. I didn't know that the damn things were backdated. Who could ah, who could ah-

JARVIS: Well, see, when it originally came up, you know, I did the things the date that it was and left 'em on your desk. You sent 'em to CARROLL's office, and then when I, they came back, you had put 'em in my tray. CARROLL sent 'em back here, and I think it was, I assume it was CARROLL that told you they needed to be backdated, 'cause you, that's what you told me to do, put 'em 'bout a year back, and, and we, we redid 'em- 'Cause see, SHERRY witnessed the first one that was the right date, and then when we redid 'em, we went ahead- I took her off and had BILLY sign that witness spot because SHERRY wasn't here then when, when the date was. So that's when you had me just put 'em back in the envelope and take 'em to CARROLL, and I, I forgot 'em until CARROLL started calling, wantin' to know where the judge's money was. So-

FAIRCHILD: Well, how would they ever know they was backdated?

JARVIS: If they contact a bunch of the employees, and they talk to SHERRY as a former employer, she remembers this-

FAIRCHILD: Well, her name ain't on it.

JARVIS: She's a former employee though.

FAIRCHILD: Yeah-

JARVIS: If, 'cause see, she was here during that time when, when all this was happening. Are she and DAVID still down in New Orleans?

FAIRCHILD: Uh-huh, yeah.

JARVIS: They might not find them then.

FAIRCHILD: Oh, I, I don't think they'll- They think that it was a- They're gone. They, they couldn't believe, they didn't think there was no instrument, see, that ah and asked for a copy of it. I said well you go over to the ah, Marion County, and go to Covington County, it's a matter of record up there.

JARVIS: I don't think we've got a copy of the recorded ones in the files here, 'cause it- You had me take 'em and give 'em to CARROLL, and that's the last I saw 'em. I don't think we ever got a recorded copy of 'em. So I don't think it, I, I think that you can honestly tell 'em that they can look in your files. I don't think they'll find it.

FAIRCHILD: Yeah, well, we told 'em this, the file, she got the file there and showed 'em where'd been mailing him a check.

JARVIS: What'd they say?

FAIRCHILD: Well, they, they said that ah, ah-

JARVIS: Wait a minute. You may have a problem on that too.

FAIRCHILD: What?

JARVIS: Back when I used to work in, with the city down there.

FAIRCHILD: Yeah.

JARVIS: I had to report everything that I owned. Do federal judges have to file- I don't know whether it was just-

FAIRCHILD: Oh, yeah, yeah, they told me, they got it, they went to the (unintelligible). Yeah, they got it. I knew it was, was gonna be reported.

JARVIS: But it's not gonna be reported when the instrument says- It's gonna be- See we didn't give it to him till eighty-one, and the instrument's gonna say somewhere- I think eighty. See, that's, that's what scared me to death. Now if they say that, okay, judge, you had it, but you didn't, you didn't report it, and he comes back and says well hell, I didn't get it till eighty-one-.

FAIRCHILD: Well, wait a minute, now what?

JARVIS: You know the, we, we made the deal- We, we ah conveyed all of the stuff to the judge in eighty-one, but, you know, y'all had me backdate it to eighty.

FAIRCHILD: Yeah.

JARVIS: If they look at his 1980 report and it's not on there, that, it's gonna make 'em dig that much deeper. Lord it- See, that's, that was what had me really worried about- 'Cause see, CARROLL was handling all this, it looked like, between you, and all this stuff that he did for you, he's got you hanging out there in the wind. And it scares me. That's what I'm trying to tell you. And that's why I wanted to sit down with you and say look, what, what do you want me to do?

I remember back when I was down in Lake City when they had that big thing come in where they got all those judges and stuff down there. Man, they did their homework before they ever went the first time. They may already know about this stuff.

FAIRCHILD: No, I tell you how it all come about. It'll ease your pain.

JARVIS: Okay.

FAIRCHILD: I got ah, I told JOHN BALTER (phonetic), he's a full-time lobbyist up there in the legislature, all about it, see, about the thing and all. He went to GEORGE PHILLIPS, and GEORGE PHILLIPS called the FBI top man there, and he called him, see. And that's, that's the way it come about.

JARVIS: Lord, lord, lord.

FAIRCHILD: And so it's ah- That's the way it come about. But I think when they get in here and find out that that stuff was on record up there and ah (unintelligible) on record up there. But they gonna find that on record back there.

JARVIS: Okay. Well, do they even know where they're looking, or they, or they- Well, I guess they'll look at his report, and it'll be on there, come to think of it-

FAIRCHILD: What kind of report?

JARVIS: If they're looking at the judge-

FAIRCHILD: Yeah-

JARVIS: Well now CARROLL-

FAIRCHILD: Well, there wasn't no intent on our part.

JARVIS: Yeah, but what I'm thinkin' 'bout- CARROLL is real tight with that judge. You don't suppose that was a squeeze play on you there, do you?

FAIRCHILD: No, I, I don't know what to expect out of him.

JARVIS: 'Cause what I'm thinking-

FAIRCHILD: You see, that was all DREW- You, stated ~~day~~ that this thing- DREW has already confessed.

JARVIS: Uh-huh. That's, that's what has- That's what I don't understand.

FAIRCHILD: Well, that's what- Couldn't have been a payoff there. He done agreed what would recommend.

JARVIS: Well, I'm, I'm wondering if CARROLL and the judge might have put the squeeze on you the way HOLMES and CARROLL are trying to do it now. Did-

FAIRCHILD: Well, I don't-

JARVIS: 'Cause CARROLL and that, CARROLL and Judge NIXON are tight, from what I understand.

FAIRCHILD: Yeah, but ah, I don't, I don't- Well it would, it would get, it would get ah, it would get ah, it would ah- I don't remember telling you to do that-

JARVIS: Yeah-

FAIRCHILD: I remember that ah, there was somethin' wrong with the papers.

JARVIS: Uh-huh-

FAIRCHILD: And that CARROLL wanted 'em.

JARVIS: Yeah. I think CARROLL was the one who, who came up with the idea of backdating 'em-

FAIRCHILD: Yeah-

JARVIS: If, if I remember correctly. But I'm wondering if they just might have used that to put the squeeze on you from another side.

FAIRCHILD: Well, now-

JARVIS: Did-

FAIRCHILD: Now Judge NIXON and CARROLL, no. CARROLL, and 'nem, ah CARROLL and ah BUD, yeah.

JARVIS: Well, you suppose the three of them might be involved in it, they may all three be in the same-

FAIRCHILD: No, I mean just CARROLL and BUD and PORTER is the one that's involved. See, BUD told me to get PORTER for a lawyer, see.

JARVIS: Uh-huh.

FAIRCHILD: And, and CARROLL was gonna work behind the scenes, see.

JARVIS: What, what I can't figure out though is why in the world CARROLL is doing all the negotiatin' between you and the judge. That, 'cause it seems like the judge and you would just sit down over the table and you just bat, you know, you just bargain and horse trade and, and settle it like that. See, because CARROLL's involved is got my, you know, and then, then the way it's been handled, it's got you- Where it looks, it looks like it was paid as a bribe is what it really looks like.

FAIRCHILD: A bribe for what?

JARVIS: I don't know. See, that's why, that's one of the reasons why I just wanted to sit down with you and bat it around this afternoon. 'Cause they're, they're gonna corral me sooner or later, and if they start asking me, I wanna know what-

FAIRCHILD: I told that, that you, to, to get in touch with you.

JARVIS: Okay, 'cause they've been trying to get me, and I've been puttin' 'em off, and puttin' 'em off, and hidin' from-

FAIRCHILD: How long they been trying to get you?

JARVIS: They tried to get me Monday because I called MARGARET, and MARGARET said that you had gone to San Antonio, and you wouldn't be back till late. And then I, then I had hearings yesterday morning. I was over in, in court yesterday. So I was able to stay hidden. The, and then today I've been, been out of the office. ZACK's probably gonna fire me when I get back for being gone this much today.

FAIRCHILD: So-

JARVIS: Well, what, what do you want me to do, you know, when they talk to me, just, what do you want me to do?

FAIRCHILD: Well, I don't know. Now what, what do you think'd be the best? You don't know nothing about the deal.

JARVIS: All I know is that the checks were being cut to the judge, and CARROLL came up with the idea of backdating those things, and I don't know why. And-

FAIRCHILD: Well, do you think you need to tell 'em that before they put you under oath?

JARVIS: Well, I don't know. We're in the situation where I can't advise you as a lawyer. 'Cause I'm right in here in the, in the thick of this with you.

FAIRCHILD: Well, but we ah-

JARVIS: See, it-

FAIRCHILD: Well, if it comes right down to it, I don't know nothing about it, your, your backdating that thing.

JARVIS: Okay.

FAIRCHILD: If CARROLL told you to, I assume you went ahead and done it, see.

JARVIS: Okay, so you're not gonna bring it up at all then.

FAIRCHILD: No-sir-ree.

JARVIS: Okay.

FAIRCHILD: I'm not gonna bring it up at all.

JARVIS: Okay.

FAIRCHILD: And I don't think that you will. I don't think they'll have no way of-

JARVIS: Okay-

FAIRCHILD: But if his, if his damn reports down there ah show it, well, don't show it, well it'd be an oversight, see-

JARVIS: Okay-

FAIRCHILD: And they, they do that, see.

JARVIS: Okay.

FAIRCHILD: You reckon we better tell CARROLL or what?

JARVIS: I don't know. I don't trust CARROLL as far as I can throw him. I don't know if he might run down there. If, if he's dirty, he may wanna make a deal to sell you to 'em to save his hide. 'Cause see, if he gets, see, if he gets indicted for this, they take away his license to practice law. So not only does he get criminally charged, but he loses his profession. And that's why- He and BUD HOLMES have got that. And that's, that's why I was telling you that if you go to MARVIN RUBIN- You know, these, they may wanna play hardball, and I'm not talking about just talking.

FAIRCHILD: Well, I'm dumb in some ways, maybe stupid in a few ways, but ah I would ah-

JARVIS: I just want you to be careful.

FAIRCHILD: I would ah be fool enough to not to, to not get into that jam.

JARVIS: Okay-

FAIRCHILD: But now CARROLL, he is not, he is not, he's too involved for this thing for anything to come about, see.

JARVIS: I don't think he could help you. I mean, I don't, I think he'd be too busy covering himself to be able to do you any good.

FAIRCHILD: Oh, hell, yeah. But they were so sure in ah, cock sure in everything, and ah, and ah they, they made a remark, well, you got us into this this morning. I said ah-

JARVIS: BALTER got you into it by opening his mouth or, you know-

FAIRCHILD: I knew he was going to GEORGE, but what I was hoping that they'd come down here and talk to me, and I'd say that ah, that ah BILL PORTER sent BOB ROYAL to me and ah they go talk to BUD, see, and let 'em know that ah, and ah, and I told 'em that this morning, and they just kinda laughed.

JARVIS: They were here this morning?

FAIRCHILD: Oh, yeah.

JARVIS: (Unintelligible)

FAIRCHILD: Well, they were so, they done talked- This is the third time they talked to me, this morning is.

JARVIS: I tell you what, when I got that phone call Monday and they told me they wanted to talk to me, scared me to death. I don't mind telling you.

FAIRCHILD: And I let 'em have this, this thing. You see what they, what makes, what, what makes the whole thing, see, it's not the fact that ah, that, that, of judge was gonna, being bribed. What, why, what happened, they already had this thing, and I didn't know it till they told me this morning, and that's why it looked suspicious, that DREW was gonna testify a, against three fellows, and ah they already sentenced them three fellows, and they turn around and not do nothing, see. And, and I said well I can understand why, but why he didn't do nothing- Well, I think that CARROLL INGRAM and BUD HOLMES talked to, to, got him to sit on it, see, and ah got him to sit on it.

JARVIS: Well, have you actually paid CARROLL or, or HOLMES anything yet, or-

FAIRCHILD: No, hell, no-

JARVIS: Okay, they're just puttin' the squeeze on you-

FAIRCHILD: Listen, now the other day when this thing happened, the other day, it was just 'fore he went out of office, CARROLL told DREW, said I've done a lot of work on this, and I hadn't been paid a dime, and, and ah that was lettin' him know he was expecting some money then. I give BILL PORTER ten thousand dollars, and I told 'em about that, see. And ah-

JARVIS: Well, is he, was, was PORTER working with CARROLL- Were they working together on DREW's defense or-

FAIRCHILD: Well, he said that it was in a memorandum I give to the FBI. They, hell, they ah- He made a statement that, DREW did, handwritten statement that ah- Well, somehere that ah it's a desk that I don't ah, that I don't ah tend. I work behind the scene, see.

JARVIS: Yeah, we see how he works behind the scenes.

FAIRCHILD: And ah, and BILL PORTER, see. 'Course, yeah, this is all- It's saying something that they stirred up, and it's something that ah I actually stirred up myself.

JARVIS: Well, I-

FAIRCHILD: But hell, if I'd been any bribery in it, this thing, ah, ah, would it been any intent or any bribery, and it just wasn't no intent of it, see.

JARVIS: Well, you know, I- That's why I came to you, just me and you, 'bout two years ago, and I know I made you mad by bringing it up, but ah, you know, couple of 'em in the office had asked me about it.

FAIRCHILD: About what?

JARVIS: About those payments to Judge NIXON. That's, that's one of the reasons why I came to you and said we need to keep everything in-house and quiet. 'Cause I didn't know, and, you know, you know how rumors get started-

FAIRCHILD: Yeah-

JARVIS: That's-

FAIRCHILD: Well, well I'm glad you come out then, and I'm glad you're concerned about it, but somehow or another, I'm not.

JARVIS: Okay, everything's okay then?

FAIRCHILD: Yeah.

JARVIS: Okay, 'cause I, like I told- I don't know if MARGARET told you that I called, but I told her I didn't wanna talk to 'em till I had a chance to talk to you and see-

FAIRCHILD: Well, she didn't tell me that-

JARVIS: Well, let me tell you- I called her back and told her not to tell you 'cause I didn't want you worried about it-

FAIRCHILD: Yeah-

JARVIS: Till I could just get a hold of you myself. 'Cause you, you hadn't come in yet from San Antonio. And I, I just been puttin' those folks off till I could talk to you. So you want me to talk to-tonight and just not say anything about that backdating, just be quiet, huh?

FAIRCHILD: Yeah, just say, and don't mention that backdating, and ah, but ah-

JARVIS: 'Cause I think that's your weak spot right there. Well, let me get back to the office so I can- Hopefully I can sneak in the back door, and ZACK'll think I been over to the courthouse all this time-

FAIRCHILD: What ah, is- They wanna talk to you tonight?

JARVIS: They've been calling over there at the office two or three times. You know, I, I was gone both yesterday and today.

FAIRCHILD: Yeah.

JARVIS: And I come back, and there'd be messages there that they've called, and they're trying to get in touch with me. They wanted to sit down with me, and they said they'd come out there at night. And I got a sneaky suspicion that they're probably gonna show up out there any, any, any night now.

FAIRCHILD: Well, they probably will. They probably will.

JARVIS: Did they ever come to your house, or did they just come down here?

FAIRCHILD: No, they called me and made an appointment. They went to MARGARET's house, see.

JARVIS: Oh, well I'd rather-

FAIRCHILD: Firt (unintelligible) MARGARET got some ah information for 'em and give to 'em, see.

JARVIS: Okay.

FAIRCHILD: And they just went-

JARVIS: Well, I'd kinda rather they came out to the house, 'cause it's, it's gonna look kinda bad. I haven't been down there a month, and all of a sudden I got them coming in there.

FAIRCHILD: You've got their number, haven't you?

JARVIS: Whose number?

FAIRCHILD: The FBI's number.

JARVIS: No, I, I, I'll get out of the phone book. Just, I'll just, just call 'em and tell 'em I guess they can come on by and see me. You want me to keep you posted?

FAIRCHILD: Oh, yes, sir-

JARVIS: Okay-

FAIRCHILD: I wanna know what's going on.

JARVIS: Okay. In the meantime, just between me, you, and these four walls, be careful. Now you had asked me about contacting DREW. I don't know if I would. 'Cause if it happened like you said and they, you know- What I'm saying is you said somethin' to BALTER, BALTER goes to GEORGE PHILLIPS, and you, you were trying to get him off your back-

FAIRCHILD: Uh-huh-

JARVIS: If you say somethin' to DREW- I mean not to DREW, but to CARROLL, you may wanna think about that first. Have you talked to a lawyer at all on this?

FAIRCHILD: Oh, yeah, yeah- No, I've not talked- I want nobody to know about that, that JOHN BALTER went to- I hadn't even told RODNEY. I hadn't told-

JARVIS: Okay-

FAIRCHILD: You, but you're so concerned see, and you're just, you, you thought they went out there and dug all this up themselves.

JARVIS: Well, I thought they had enough, I, I thought they were ready to come here like they did in Lake City-

FAIRCHILD: Yeah-

JARVIS: I been through it one time, and it scares me.

FAIRCHILD: Well, my conscious is clear, and I ah, old ah Governor WALLER is drawing a damn check that ah, that some stuff that I gave him, and ah, and ah, and (unintelligible) it wasn't no payoff, and, you know- My conscious, hell, they may wind up, do somethin' about it, but ah, but goddammit, I may have violated the law, and, but ah, but the intent wasn't there, and I just don't think there was- I just don't think there's nothing that they can do about it. Ah-

JARVIS: Well, have you, you said you wanted that, but you said something to BALTER to talk to PHILLIPS to get them off your back. Have you thought about just going to 'em and, and seeing if they'll, if they can get them off your back. Of course, you know-

FAIRCHILD: Going to who?

JARVIS: You said the FBI was here. Have you thought about just seeing what they can do to shut CARROLL and BUD HOLMES down? 'Cause if, it's gonna, you know, if- To do that, it's gonna take a grand jury and the rest.

FAIRCHILD: Well, I know it, it's gonna take somethin', and ah-

JARVIS: You thought-

FAIRCHILD: Well, the first time I, they was here, I said if y'all want to get something, I said you oughta be investigatin' how much money that BILL PORTER owed, who was on them notes and, and didn't they have life insurance on 'em. They said well they'd been checking into that.

JARVIS: Well, somebody asked me one day if ah, if HOLMES might have had something to do with that. Do you suppose he did?

FAIRCHILD: I'll die believing it. Oh, shit, you don't, you don't dive down there three times and it already dark and mucky water and say well he's not in there, and swim a damn live with your clothes on. No, it's impossible.

JARVIS: Well that's, see that's what scares me, that, you know, if, if any of this leaks out, you- Have you told MARGARET to kinda keep this under her hat? Have they talked to anybody else that you know of?

FAIRCHILD: Um no, no.

JARVIS: Okay.

FAIRCHILD: What ah, if what leaks out?

JARVIS: You, about what's going on that BALTER told them what you had said.

FAIRCHILD: No, she don't know that ah-

JARVIS: Oh, okay, so I'm the only one that knows that.

FAIRCHILD: You're the only-

JARVIS: Okay-

FAIRCHILD: I told the FBI that, see.

JARVIS: Okay. You don't suppose that they'll- Well they, are they gonna keep that kinda in, in their- Who, who was it with the FBI that you talked to? Do you remember who they were?

FAIRCHILD: Ah-

JARVIS: I'd kinda like to know so I, so I know-

FAIRCHILD: It'll be the same two that I talked to here.

JARVIS: Oh, okay.

FAIRCHILD: It's ah, ah- Had the two names. I've got 'em in the office. I got 'em in this book.

JARVIS: How is his name WHITE or SPUNNER or-

FAIRCHILD: Ah, SPUNNER-

JARVIS: SPUNNER, okay. Okay. Now I'll know, if they come out, now I'll know if they're the same ones that talked to you or whether, whether they've got some more in here.

FAIRCHILD: You want that to get to, to call 'em?

JARVIS: No. I'll go back to the office and just call 'em and tell 'em to come out after dinner tonight. I might send PAM and the kids off somewhere. 'Cause I know it's gonna scare PAM to death when the FBI comes to the house. Well, let me get back-

FAIRCHILD: Well, ah, I can understand where you are. I was asked to do ah WALLER a favor, see, and I can understand, and ah-

JARVIS: Well the only thing-

FAIRCHILD: And I'm telling you that I was asked, or I was- Well, well I don't remember who, but anyway, I went ahead and done it, and ah if it'd been JOE BLOW or somethin' 'nother, I, I- Very few people know WALLER calls all the time, wantin' to get in deals, see-

JARVIS: Right-

FAIRCHILD: And other people want, and you know that, see.

JARVIS: Right.

FAIRCHILD: And ah, and they just (unintelligible) people go in there, and certainly I'd rather do somethin' for a governor. I'd rather do somethin' for a judge or a prosecuting attorney- No, a judge, period. I'd rather do somethin' for them than the average fellow. Because they're the ones that can help you if you ever need it.

JARVIS: Right.

FAIRCHILD: But what you was, what, what they don't know, but at that, me and, back at that time hell, me and DREW wasn't hardly on speaking terms.

JARVIS: I remember that..

FAIRCHILD: We weren't hardly on speaking terms, and ah-

JARVIS: That's why it surprised me when, when CARROLL was here and all this switchin' and swappin' was going on, and, you know, I- That's, that's one of the reasons why I was walking around here just not knowing what in the hell was going on.

FAIRCHILD: Well, well, I told 'em that, that, that me and him wasn't on good terms at that time. Hell, we wasn't. We wasn't even, we wasn't even visiting, speaking, or nothing else at that time. And, and I told them when that plane landed there, I was, I'm still that damn fellow today that I was, and I ain't changed a bit. If I was a shit ass then, I am today. I haven't changed a bit.

JARVIS: Well then if, if, if we get rid of CARROLL and, and HOLMES, then everything, you got, you got that taken care of up there in Jackson then, right, on the State stuff?

FAIRCHILD: Yeah-

JARVIS: Okay-

FAIRCHILD: Yeah, well-

JARVIS: Okay.

FAIRCHILD: And ah if all- I'm, I'm led to believe- I'm like before, if what I'm saying happens, it would happen, see. And ah, and ah, and it'll be over with, see.

JARVIS: Okay. Well, changing the subject just a minute- Did you get the letter I wrote you by-

FAIRCHILD: Yeah-

JARVIS: Okay. I, I got bad feelings on that CLINTON V. MORGAN thing, and ah I'm gonna speak out, and I shouldn't speak out the way I'm going to, but I, either WALLACE doesn't understand the argument-

FAIRCHILD: No, if you went down there and talked to him, he called that fellow up and ah, and WALLACE, he told WALLACE to write him a letter, said we, neither one, don't have a clear cut. He's changed his views on it-

JARVIS: FOXWORTH, RICHARD FOXWORTH up-

FAIRCHILD: Yeah.

JARVIS: Okay.

FAIRCHILD: He's, he's, he's changed his views a hundred percent. He says we do have- And he said you had a good point, said you had an excellent argument there.

JARVIS: Oh, I wish WALLACE would have listened to me two years ago.

FAIRCHILD: Yeah. Well, he's ah, he's, he's hardheaded, and we all are in a way, but ah-

JARVIS: I know-

FAIRCHILD: But ah-

JARVIS: I, I admit-

FAIRCHILD: He's ah-

JARVIS: Well now is he gonna move back into the building that you're remodeling down there?

FAIRCHILD: Uh-huh, yeah.

JARVIS: I, I went in there. He really kinda hurt my feelings, 'cause I originally approached him about practicing law with him, oil, doing oil and gas stuff-

FAIRCHILD: Yeah-

JARVIS: And he told me that he, he only wanted to go, he only wanted to practice by himself, and I found out he's taking MILTON SCHLESINGER and JOE BUSH in with him. And I told him, I said yeah, I told you I-

FAIRCHILD: He's going (unintelligible). He's got more.

JARVIS: Well, I knew he was taking those two in, and I, I mentioned that to him when I went down there. All he did was sit back in his chair and smile. I thought he was afraid I was gonna the FAIRCHILD business away from him.

FAIRCHILD: Ah, now he got some clerk of the Supreme Court, didn't he?

JARVIS: JOE BUSH.

FAIRCHILD: Well he's, he's a good, he's a good clerk though, ain't he? He's-

JARVIS: You'll, you'll see, 'cause he, he'll- If, if he's with WALLACE, he'll be, he'll doing some work for you. JOE went, I had several classes with JOE up there. Well, I know ZACK was interviewing a girl that was DAN RUSSELL's clerk, Judge RUSSELL, the federal judge. He's gonna interview her to bring her in there to work with us.

FAIRCHILD: Has he got a pretty good practice?

JARVIS: Ooh, I tell you what- It's, they got me jumping. I got sworn in Friday afternoon, and I was in court yesterday. You know, it's, they keep-

FAIRCHILD: Had court yesterday?

JARVIS: Uh-huh. I was sneaking out today. I had to do some research down here at Southern, 'cause we didn't have- He's got a good law library down there, one of the best I've seen in Hattiesburg, but he didn't have the set of case books that I needed, so I slipped out today, you know, going down there to Southern, and that's where I'm supposed to be right now is over here at Southern's law library.

FAIRCHILD: Uh-huh-

JARVIS: (Unintelligible) The first day that I went to work with him, that very first day he had, had me over in, we were in court in Marion County on a railroad suit. Just, they got me hittin' the ground runnin'.

On that other stuff, you know, I told you, the letter- I'm trying to figure out- I've been pulling ~~out~~ all that Internal Revenue stuff and State taxes, and I'm trying to figure out some way to balance that out. It, you know, you already know it's gonna cost you to do what you wanna do, but ah if I can come up with somethin', I'll lay it out and then, you know, then let you tell me what you think when that time comes.

FAIRCHILD: Okay. Okay, I appreciate you coming by.

JARVIS: Okay. I'll keep you posted if, if this-

FAIRCHILD: Yeah, give me a call if they come out tonight.

JARVIS: How late you gonna be up?

FAIRCHILD: Oh, I'm on the water wagon now. I don't go to sleep until ten-thirty or eleven o'clock.

JARVIS: Okay. You back off that. You quit the VO again?

FAIRCHILD: Oh, yeah. Yeah, I been off of that.

JARVIS: That's good.

FAIRCHILD: So-

JARVIS: Okay, I'll let you know-

FAIRCHILD: But this thing, ah, ah, ah, if I've told any truth in my life, this thing that ah, this thing was already happened- It couldn't be- Now what they have done, (unintelligible). They're thinking that NIXON, maybe. talked to, to ah, ah GEORGE PHILLIPS to get it pulled down here in court. Well, why would I wanna talk to Judge NIXON to, to do that? Why would I want it down here, and why, hell, ah-

JARVIS: Seem like you'da gone straight to GEORGE PHILLIPS if you're gonna do that-

FAIRCHILD: Yeah, I'd go into- Well, I, what they go to CARROLL. Hell, (unintelligible) CARROLL, and ah I've talked to GEORGE PHILLIPS. Don't, but, won't, wasn't you here when me and CARROLL went up there and talked to GEORGE PHILLIPS, and they had me before a grand jury up there?

JARVIS: Uh-uh. When was that?

FAIRCHILD: You were here. It was here, 'bout the, about the FINCH thing. About-

JARVIS: Yeah, I remember that, sure do. I was thinking it had something to do with this.

FAIRCHILD: No.

JARVIS: Okay.

FAIRCHILD: Yeah, but I got him. If, if, and if you can, you, if you'll just tell 'em that, that they had me on the charter of this bank, ah the FBI men, did, and I carried CARROLL up there, and ah CARROLL ah went back there and talked to 'em, and ah, and I told CARROLL I wasn't worried with 'em unless it's something that happened about twelve or fifteen years ago. They said well, it wasn't that, and what it was, into the bribe business. Everybody had a bribe didn't get a charter, see, and what I had done, ah SIMS led him to believe we'd give him some stock, see.

JARVIS: Uh-huh-

FAIRCHILD: Well, SIMS didn't wanna do nothing about it, and there wasn't no stock, so we hadn't done nothing, see, and I knew better, bygod. What he was doing, he was gonna ah get ah caught. So if that would have happened, and you can tell 'em that, if I'da wanted to do something, I'd just got CARROLL to go up, but what I think, I think CARROLL and BUD HOLMES went to him and got him to lay low where, let 'em come back there and indict where they could get a big bribe out of it.

JARVIS: That's an idea.

FAIRCHILD: That's exactly what I think. And well, I, I can't be bribed so it didn't work, see. And I think ah, I think that ah- I don't think GEORGE PHILLIPS can be touched.

JARVIS: I don't know GEORGE PHILLIPS. I, I don't know.

FAIRCHILD: Well, I don't think he can be touched, see, but anyway you've got the good picture of it now, and I think you'll-

JARVIS: Okay, I'll-

FAIRCHILD: Feel better after you talk to 'em.

JARVIS: I'll call 'em back from the office, and after-

FAIRCHILD: Okay-

JARVIS: After they come out there, I'll give you a holler at the house.

FAIRCHILD: Okay.

JARVIS: It's now 4:15. I'm leaving FAIRCHILD's office.

END OF RECORDING

DEFENDANT'S EXHIBIT 17A

[redacted]

MARIE FAIRCHILD: Hello.

R. L. JARVIS: MARIE?

M. FAIRCHILD: Uh-huh-

JARVIS: This is SKIP. Is Mr. WILEY around?

M. FAIRCHILD: Yeah, just a minute, SKIP.

WILEY FAIRCHILD: Yeah.

JARVIS: Hey, I hope I caught you during the sports. I called over there, and they, they said that they were gonna be tied up tonight, and they weren't gonna meet with me tonight, ah that they wanted to get back with me some time tomorrow-

W. FAIRCHILD: Uh-huh.

JARVIS: So I don't know what time they're gonna corner me. Listen. There's, there's one thing I wanna ask you though before they talk to me.

W. FAIRCHILD: Yeah.

JARVIS: You know, you said they were asking about that stuff on NIXON. If- I don't know how much that royalty is producing, but it can't- Is the cost those twenty-five hundred dollar notes. Is that anywhere in the ball park what that stuff was worth?

W. FAIRCHILD: When the deal was made, when we, when the verbal deal was made, hell yeah.

JARVIS: Okay. I just, you know, I was thinking about that. I didn't know how much that stuff has paid him since then. They may come back, you know, take a look at those notes.

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 26

W. FAIRCHILD: Well, you don't know nothing about what that ah- You don't ah-

JARVIS: Okay, you just want me, you just want me to handle it like that.

W. FAIRCHILD: Yeah, but ah, but ah, but it's-like it's happened so many times. A deal is made way before everything is, the papers is drawn up, see.

JARVIS: Oh, okay.

W. FAIRCHILD: And ah, and ah, but I assure you the deal was made when that was, that was legitimate, see.

JARVIS: Okay, now, are you gonna be 'round most of the day tomorrow? 'Cause-

W. FAIRCHILD: All day.

JARVIS: Okay, I'll call you just as soon as I meet with them, and I'll let you know what, what happens. Okay?

W. FAIRCHILD: Okay, good.

JARVIS: See you tomorrow-

W. FAIRCHILD: All right.

END OF CONVERSATION

JARVIS: My name is ROBERT L. JARVIS, JR. The foregoing conversation was a telephone conversation between myself and WILEY FAIRCHILD, made at approximately 5:54 on April the 18th, 1984.

FD-302 (REV. 3-8-77)

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 27

EXHIBIT
Respondent's
Exhibit 27

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/4/84

WILEY FAIRCHILD, who is aware of the identity of SA DONALD M. LAWLESS, was contacted at his place of business, FAIRCHILD CONSTRUCTION COMPANY, at which time he was made aware of the identity of WELDON L. KENNEDY, Special Agent in Charge, and BOB RICHTER, Attorney, United States Department of Justice, Public Integrity Section. FAIRCHILD thereafter furnished the following information:

FAIRCHILD essentially reiterated information he had previously furnished to SA LAWLESS and SA K. P. WHITE-SPUNNER, JR., on previous interviews with FAIRCHILD. In addition to this information, however, FAIRCHILD advised he had never paid any monies to BUD HOLMES, the district attorney in Forrest County, Mississippi, for the handling of the criminal case against his son, DREW FAIRCHILD.

FAIRCHILD admitted he had personally met with WALTER L. NIXON, Chief Judge, United States District Court, Southern District of Mississippi, in his office on two occasions, one of which involved discussions of the details of an oil and gas royalty transaction between him and NIXON. FAIRCHILD admitted one of these meetings between him and NIXON occurred at a time after his son, DREW FAIRCHILD, had become involved in a criminal matter, but denied the meeting between him and NIXON had anything to do with his son's criminal matter. FAIRCHILD advised he (FAIRCHILD) had been the one who set the price of the oil and gas royalties he had sold to NIXON.

FAIRCHILD advised the possibility of selling oil or gas royalties to NIXON was discussed long before his son, DREW FAIRCHILD, had become involved in a planeload of marijuana that landed in Hattiesburg. FAIRCHILD advised CARROLL INGRAM had asked him to put NIXON in a deal, doing so in approximately 1979. FAIRCHILD recalled INGRAM asked him to put NIXON in a deal if one came along.

FAIRCHILD was questioned as to whether his transaction with Judge NIXON was a normal business transaction, to which FAIRCHILD replied that it was. FAIRCHILD was further questioned as to whether he frequently placed various individuals into similar-type business transactions with himself, to which he replied he put Judge NIXON in the aforementioned deal the same as he would THAD COCHRAN or former Mississippi Governor BILL WALLER.

Investigation on 4/19/84 at Hattiesburg, Mississippi File # JN 58B-109

by SAC WELDON L. KENNEDY
SA DONALD M. LAWLESS/DML/mae Date dictated 4/26/84

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JN 58B-109

Continuation of interview of WILEY FAIRCHILD Page 2

FAIRCHILD was questioned as to whether he would furnish similar deals to his employees or to less notable individuals, to which he replied he would not. When pressed to explain the discrepancy, FAIRCHILD advised Judge NIXON as well as former Governor BILL WALLER were influential men, and he put Judge NIXON in the deal as described above because CARROLL INGRAM asked him to. FAIRCHILD advised, "I've got a good friend in CARROLL INGRAM."

When asked to describe what FAIRCHILD defined as an influential man as it relates to Judge NIXON, FAIRCHILD advised NIXON as a federal judge had the discretion to levy either a $500,000 fine or a $250,000 fine.

FAIRCHILD repeatedly denied his business transaction with Judge NIXON was an attempt on his part to influence or to seek Judge NIXON's influence on behalf of his son, DREW FAIRCHILD, further stating the thought had never crossed his mind when he entered the transaction with Judge NIXON.

When questioned as to the authenticity of the dates appearing on the conveyances in the above-described transaction between FAIRCHILD and NIXON, FAIRCHILD advised he now recalled CARROLL INGRAM, who had prepared the conveyances, had instructed that the conveyances should be backdated. FAIRCHILD advised he did not have this recollection when discussing these conveyances with SA's LAWLESS and WHITE-SPUNNER and could remember no more than what he furnished to the interviewing Agents at this time.

FAIRCHILD, when asked to furnish a waiver of attorney/client privilege to the interviewing Agents for the purpose of presenting to and subsequently interviewing CARROLL INGRAM, advised he would first have to consult with his attorney, WALLACE GUNN, prior to furnishing such a waiver.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 28

EXHIBIT
Respondent's
Exhibit 28

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/24/84

REDDITT A. "DREW" FAIRCHILD, 1215 Windsor Drive, Hattiesburg, Mississippi (telephone 601/268-3350), was interviewed in the conference room of FAIRCHILD CONSTRUCTION COMPANY, Hattiesburg, Mississippi. He was advised of the identity of the interviewing Agents, after which he furnished the following information:

Sometime during early August of 1980, FAIRCHILD was the co-manager, along with BOB ROYALS, of the Hattiesburg Airport. A plane with several people in it landed at the airport, and the persons aboard were arrested for smuggling marijuana. FAIRCHILD stated neither he nor ROYALS was arrested at the same time. FAIRCHILD commented he was not even present at the airport when the plane landed. He did admit, however, he anticipated he would be in trouble regarding the plane but did not go into specific details.

Sometime during November of 1980, FAIRCHILD was alone drinking in JIMMY FAUGHN's bar in Hattiesburg when he was approached by Attorney WILLIAM F. PORTER no less than three times wanting FAIRCHILD's permission to go talk to Forrest County District Attorney "BUD" HOLMES about DREW's case. DREW FAIRCHILD put PORTER off the first two times, but on the third time, "just to get rid of him," FAIRCHILD said, "Okay, go ahead and talk to HOLMES."

FAIRCHILD stated he was surprised when he said this to PORTER that PORTER immediately turned and ran out of the bar and across the parking lot to his car. About 30 minutes later, PORTER returned to the bar and told FAIRCHILD, "It's all set for tomorrow" (meaning a meeting with District Attorney HOLMES).

The following day, FAIRCHILD accompanied Attorney PORTER to BUD HOLMES' office, at which time HOLMES told FAIRCHILD that there was a rumor that "I was the biggest dope hauler in Mississippi." (FAIRCHILD stated Hattiesburg attorney and distant relative CARROLL INGRAM had said this very thing to him the day before.)

HOLMES told FAIRCHILD he did not want to see anything happen to him and that FAIRCHILD needed to go to GEORGE PHILLIPS

Investigation on 4/20/84 at Hattiesburg, Mississippi File # JN 58B-109-97

by SA K. P. WHITE-SPUNNER, JR.
SA DONALD M. LAWLESS/KWS/mae Date dictated 4/23/84

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(U. S. Attorney, Southern District of Mississippi) in Jackson, "to make a deal." FAIRCHILD asked HOLMES if he did this what would happen to possible Mississippi Bureau of Narcotics (MBN) charges that may be brought against FAIRCHILD, at which time HOLMES told him he would tell MBN that FAIRCHILD had made a deal with GEORGE PHILLIPS.

FAIRCHILD stated during this meeting with HOLMES and PORTER there was no discussion of fees, though BUD HOLMES did ask him if he had any money, and when FAIRCHILD replied, "No," he also told HOLMES he did own some oil properties.

That same night, Attorney PORTER telephoned FAIRCHILD at home and said they had a meeting set up with GEORGE PHILLIPS in Jackson the following morning. FAIRCHILD recalled he believed BUD HOLMES actually set this meeting up.

On November 19, 1980, FAIRCHILD accompanied Attorney PORTER to Jackson, Mississippi, during which trip Attorney PORTER asked FAIRCHILD if he knew anything about ROSCOE MOORE, a former Hattiesburg Pontiac dealer believed to be involved in narcotics trafficking. FAIRCHILD told Attorney PORTER he did not know anything about ROSCOE MOORE. When they got to the United States Attorney's Office in Jackson, GEORGE PHILLIPS and Attorney PORTER went into an office and conferred alone while FAIRCHILD waited outside. PORTER then came out of the office and told him that he had arranged a "deal" with U. S. Attorney PHILLIPS calling for (as FAIRCHILD now recalls) five years probation and a fine with no confinement. He would get this in exchange for cooperating and testifying against other persons involved in the August of 1980 marijuana smuggling incident. FAIRCHILD stated he agreed to this, and he and Attorney PORTER then drove back towards Hattiesburg, Mississippi. He recalled during this trip back to Hattiesburg, they had reached a point directly in front of the Piney Woods School (21 miles south of Jackson) when FAIRCHILD asked Attorney PORTER how much he owed him for his services, and Attorney PORTER replied that FAIRCHILD should not worry about it since BOB ROYALS already owed him a lot of money.

The subject of possible legal fee did not come up again during the remainder of the drive back to Hattiesburg.

Less than one week after this trip to Jackson, Attorney PORTER again took FAIRCHILD back to U. S. Attorney GEORGE PHILLIPS' office, and both he and Attorney PORTER were waiting for U. S.

Attorney PHILLIPS in the conference room when PHILLIPS walked in and was obviously mad, saying to FAIRCHILD, "You haven't given us a goddamn thing. You gave the FBI a line of shit about the plane." Attorney PORTER then spoke up and said, "That's my fault." U. S. Attorney PHILLIPS then slammed the door and walked out of the room and did not return.

FAIRCHILD stated that after this outburst, Attorney PORTER admitted to him that when they had arranged the deal with U. S. Attorney PHILLIPS the week before, he (PORTER) had told PHILLIPS that FAIRCHILD was in a position to furnish information regarding ROSCOE MOORE and the subjects who had been involved in the marijuana smuggling operation in August of 1980. FAIRCHILD stated he was in no position to furnish any information since he did not possess such information, and during the week between these two trips to U. S. Attorney PHILLIPS' office in Jackson, he had been interviewed by the FBI and MBN personnel and had been unable to furnish them any information of substance. This is apparently what caused U. S. Attorney PHILLIPS to be angered; however, FAIRCHILD does not recall there ever being any mention that his previously-arrived-at deal with the U. S. Attorney was now voided.

Several weeks later, Attorney PORTER summoned FAIRCHILD to his Hattiesburg office and told FAIRCHILD he needed some money. When FAIRCHILD asked how much, PORTER responded he needed $10,000. When FAIRCHILD protested the amount of money, PORTER responded, "For what we did, it was worth it." FAIRCHILD then told Attorney PORTER he felt this was far too much for the two days work that Attorney PORTER had put into his case, and he (FAIRCHILD) just did not have the money. Attorney PORTER said, "Your daddy does." Attorney PORTER said he had just purchased a new diesel automobile and needed the money from FAIRCHILD to pay for the car.

About two weeks following this, FAIRCHILD was again in Attorney PORTER's office, at which time the $10,000 legal fee was brought up again, and FAIRCHILD again told Attorney PORTER he did not have the money, whereupon PORTER responded, "WILEY (FAIRCHILD) has it." PORTER then asked FAIRCHILD what he would do if he (PORTER) went to WILEY asking for it, and FAIRCHILD responded if PORTER wanted to do that he could but that DREW FAIRCHILD was not going to do it.

Attorney PORTER then filed a civil law suit against DREW FAIRCHILD in the amount of $10,000 for the unpaid legal fees.

PORTER also told DREW FAIRCHILD that he would probably be prosecuted federally for not living up to his plea agreement with GEORGE PHILLIPS.

Around June of 1981, BOB ROYALS told DREW FAIRCHILD that he had driven to Montgomery, Alabama, on other matters with Attorney PORTER, during which trip they conversed regarding the narcotics case and DREW's involvement in it. PORTER also commented to ROYALS that DREW FAIRCHILD had been unable to pay his $10,000 legal fee, and he told ROYALS that if DREW's father, WILEY FAIRCHILD, found out he would pay it because he does not want his name splashed in the newspapers.

In early August of 1981, BOB ROYALS told DREW FAIRCHILD that PORTER had told him that Forrest County authorities planned to indict both FAIRCHILD and ROYALS for their part in the narcotics matter. FAIRCHILD responded to ROYALS he had already made a plea agreement with the "feds," so he did not think he could be indicted by the local grand jury, but he was of the opinion that Attorney PORTER put ROYALS up to telling FAIRCHILD this just to keep pressure on him to pay the $10,000 legal fee.

The next thing that happened occurred in August of 1981 when DREW FAIRCHILD was at home, and he received a telephone call from his father, WILEY FAIRCHILD, who told him he had just been indicted by the Forrest County Grand Jury. By this time DREW FAIRCHILD had become aware that apparently Attorney PORTER had dropped the $10,000 civil suit against him for legal fees, but at that time he did not know the suit had been dropped when his father had paid Attorney PORTER $2,500. Inasmuch as FAIRCHILD had to have immediate counsel for the arraignment following his indictment, he contacted Attorney PORTER and asked him to represent him at the arraignment. Attorney PORTER agreed to do so but said it would take $7,500. It was during this phone conversation with Attorney PORTER that PORTER revealed WILEY FAIRCHILD had already given him $2,500 for the previous legal fees which had caused Attorney PORTER to drop his law suit. DREW FAIRCHILD stated that in order to pay the amount above, he sold his father WILEY some oil properties for half price and got $22,500. He stated what actually happened was that WILEY FAIRCHILD paid PORTER the $7,500 and deducted this amount and the previously-paid $2,500 amount from the total, leaving DREW FAIRCHILD $12,000 on the deal.

Attorney PORTER and DREW FAIRCHILD then went to Forrest County Circuit Court where he entered a plea of not guilty to the narcotics charges.

The next thing that happened occurred in January of 1982 when the last remaining subject in the narcotics case, ROBERT WATKINS, was arrested somewhere in Texas. Several days after his arrest, DREW FAIRCHILD was contacted by Forrest County District Attorney HOLMES, who told him either HOLMES would work a deal out with FAIRCHILD or a deal out with WATSON. Whoever got the deal would be required to testify against the other in upcoming trials on the narcotics matter. FAIRCHILD stated inasmuch as he felt he was now in a corner, he agreed to enter a deal with Attorney HOLMES, and he pled guilty in Forrest County Circuit Court with the understanding he could change it at a later date.

The next thing FAIRCHILD knew about the case it had been passed to the files (December, 1982).

In January, 1983, "all hell broke loose in the local newspapers." Attorney PORTER came to DREW FAIRCHILD's house that night, stating that the publicity in the newspapers was hurting the FAIRCHILD family, and Attorney PORTER recommended they hold a news conference during which DREW FAIRCHILD should issue a formal apology for becoming involved in a narcotics case, but DREW FAIRCHILD refused to go along with Attorney PORTER's recommendation.

Since that meeting in January, 1983, DREW FAIRCHILD had no further contact with Attorney PORTER, who disappeared in early November, 1983.

FAIRCHILD stated he is not now represented by any counsel in the Hattiesburg area and would have no idea who would have his case file, which had been in Attorney PORTER's office.

He stated during the entire time the above activities were taking place, he talked to Attorney CARROLL INGRAM, who is a distant cousin, several times regarding the case, and Attorney INGRAM told him he wanted to stay behind the scenes but would get someone else to "front for him."

FAIRCHILD was shown a photocopy of a handwritten three-page "To Whom It May Concern" note dated June 20, 1983, bearing his signature which sets forth his recollections as to efforts made by him to obtain an attorney to represent him in the narcotics matter. FAIRCHILD stated he had in fact written the note at the instruction of his father on June 20, 1983, but is not sure why his father had asked him to write the note.

FAIRCHILD was asked if he is acquainted with Chief U. S. District Court Judge WALTER L. NIXON, JR., and he stated he does not know NIXON personally and doubts he has ever met him. He was asked whether he knows of any business dealings between his father and Judge NIXON, and he denied knowledge of anything of that sort.

The following is a photocopy of the June 20, 1983, "To Whom It May Concern" note referred to above:

To Whom it may Concern

In the latter part of 1980 I went to see Mr Carrol Ingram about representing me on a charge of conspiracy if I was charged.

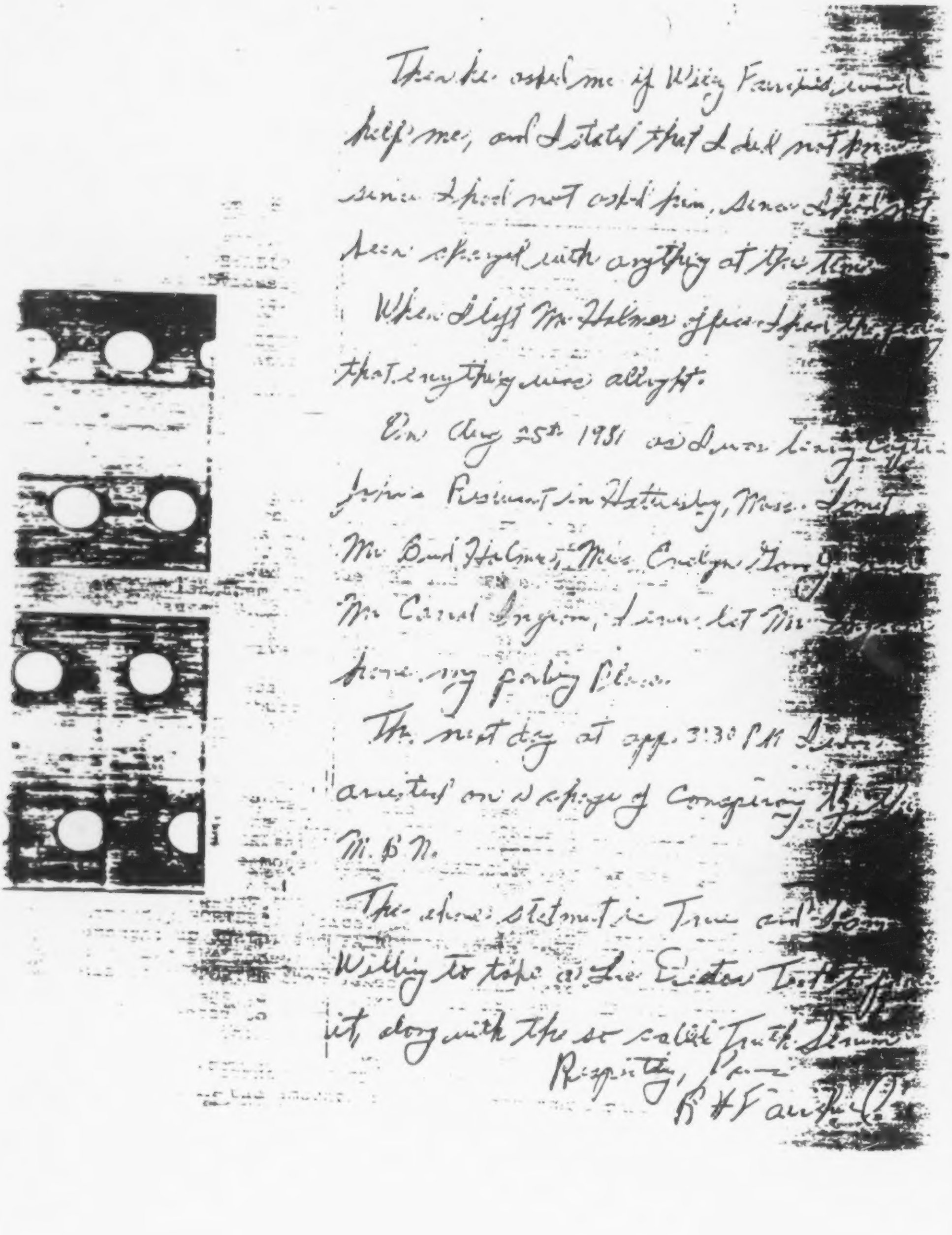
At one point during my visit he stated that I was supposed to be the biggest dope handler in the state, which is not true and I [illegible] At no time during our talk did he indicate that he believed me. Mr. Ingram said that he thought it would be best to get someone other than himself to handle the case. I asked him who he had in mind. he said he did not know at this time. About this time he asked me did I have any money. I thought this kind of odd since he acted as if I was the biggest dope handler in the State, and if I was I would have plenty of money

I told him I did not know of at the time, but I did own some Oil Leases and [illegible] and a few Minerals.

He then asked me if Kitty would help me. I said I did not know since I had never asked him. He intimated that it [illegible] not be the lawyer of record but would be [illegible] behind the scene.

The following day I went to see [illegible] Fred Holmes about the same matter and he was sent from the biggest [illegible] in the State. [illegible] have never heard any [illegible] the State of Miss.

He then asked me did I know [illegible] and I told him the same thing that I told Mr Ingram the day before.



Then he asked me if Wiley Fairchild would help me, and I stated that I did not know since I had not asked him, Since I had not been charged with anything at the time.

When I left Mr Holmes office I [illegible] that everything were allright.

On Aug 25th 1981 as I was leaving Captain John's Resturant in Hattiesburg, Miss. I met Mr Bud Holmes, Miss Evelyn Young and Mr Carrol Ingram, I then let Mr Ingram have my parking place.

The next day at app. 3:30 PM I was arrested on a charge of Conspiracy [illegible] M.B.N.

The above statement is True and I am Willing to take a Lie Detector Test to [illegible] it, along with the so called Truth Serum.

Respectfully, Yours
R H Fairchild

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 29

EXHIBIT
Respondent's
Exhibit 29

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 5/4/84

Upon request, PAUL H. HOLMES appeared at the FBI office in Hattiesburg, Mississippi. HOLMES, who is aware of the identity of the interviewing Agent, was made aware of the identity of REID WEINGARTEN and BOB RICHTER, Attorneys, U. S. Department of Justice, Public Integrity Section. HOLMES was advised of the nature of the interview and thereafter furnished the following information:

HOLMES advised he is the former district attorney for Forrest County, Mississippi, having served as district attorney for that county during calendar years 1980 through 1983.

HOLMES advised he knew WILEY FAIRCHILD to be an extremely wealthy local Hattiesburg businessman and knew REDDITT ANDREW FAIRCHILD to be the son of WILEY FAIRCHILD. HOLMES characterized his relationship with WILEY FAIRCHILD as "having no problems with him now," but indicated his relationship with FAIRCHILD fluctuated. HOLMES advised WILEY FAIRCHILD had not contributed any money to his campaign in running for the office of district attorney because he "would not let him." HOLMES advised, however, he did make appearance at FAIRCHILD's business office on Highway 49 to solicit the vote of FAIRCHILD as well as his employees.

HOLMES advised he had no particular close association with DREW FAIRCHILD although on one occasion in times past DREW FAIRCHILD had refused to accept a $1,000 check written by HOLMES for a third party upon that third party's request which was subsequently given to DREW FAIRCHILD in payment by the third party. HOLMES admitted that at that particular time he had become somewhat angered or annoyed because of DREW FAIRCHILD's refusal to accept his check inasmuch as he had more than ample funds to cover it but advised he bore no grudge against FAIRCHILD for that reason.

HOLMES advised he knew GEORGE PHILLIPS, United States Attorney for the Southern District of Mississippi well and characterized his association with PHILLIPS as very close. HOLMES advised that PHILLIPS, prior to serving as United States Attorney, had served as county attorney for Forrest County on two different occasions and that HOLMES had supported him in his initial term of office as county attorney but had not supported him in his subsequent term of office. HOLMES advised PHILLIPS was serving as county

Investigation on 4/25/84 at Hattiesburg, Mississippi File # JN 58B-10[illegible]-113

by SA DONALD M. LAWLESS/mae DML Date dictated 4/26/84

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

attorney in Forrest County, Mississippi, when HOLMES began his term as district attorney. HOLMES advised he had been requested to place his name in consideration for the United States Attorney position but had decided not to and in fact had encouraged GEORGE PHILLIPS to place his name in contention for the United States Attorney position due to the fact he knew that PHILLIPS for some time had goals of either becoming an FBI agent or a United States Attorney. HOLMES advised he used to talk with PHILLIPS frequently in his capacity as United States Attorney but mostly talks to his assistants now. HOLMES claimed to have been instrumental in recommending and causing the recent guilty pleas of D. J. VENUS and other defendants related to that particular case by recommending they go "hat in hand" to GEORGE PHILLIPS as opposed to taking their chances in a trial by jury. Similarly, HOLMES advised he had represented a defendant, RICKY LEE EDWARDS, charged with a federal narcotics violation matter, and was instrumental in the resolution of this matter before the federal judicial system.

HOLMES advised he knew CARROLL INGRAM to be a prominent attorney in Hattiesburg, Mississippi, and described INGRAM as a close friend. HOLMES advised INGRAM supported him in his campaign for district attorney and claimed to have no business interests with INGRAM. HOLMES advised he also knew INGRAM to be what he initially described as a nephew and later changed to what he believed to be some type of cousin of WILEY FAIRCHILD.

HOLMES advised the current Chief Judge for the United States District Court in the Southern District of Mississippi, WALTER L. NIXON, is a very close friend of his. HOLMES advised he has no business dealings or relationships with Judge NIXON. HOLMES advised his acquaintanceship with Judge NIXON first began when both he and NIXON were serving as plaintiffs' attorneys. By way of background, HOLMES advised Judge NIXON's father years ago served as president of the board of supervisors in the county in which he resided on the Mississippi Gulf Coast and was therefore a well-known figure, and subsequently his son, WALTER L. NIXON, became well known in that way. HOLMES advised in those times years ago, the juries in that particular county were made up exclusively of white men, and NIXON, practicing law at that time and being well known in the area, would more often than not win the cases he had before the court. HOLMES advised on one occasion he was scheduled to present a case in court on the Mississippi Gulf Coast, and his case followed one of NIXON's. He advised prior to his case being presented in court by himself, he conferred with NIXON, and NIXON, on learning the details of his case and on learning what settlement he wanted out of the case, suggested that HOLMES mention to the judge that he (HOLMES) had associated NIXON as co-counsel in the case and ask him for a dollar amount or award several thousand dollars beyond what he actually wanted. HOLMES advised he took NIXON's advice and was granted his award with ease. HOLMES advised he never forgot this favor and indicated this was the beginning of his close association and friendship with NIXON. HOLMES advised he offered to pay NIXON what he felt was his portion of the award he got, but NIXON refused to accept it.

In beginning to explain his handling of the DREW FAIRCHILD case in Forrest County, Mississippi, while serving as district attorney, HOLMES began with the following by way of background:

HOLMES advised he had been in office only a short time when a large truck was stopped in his county and determined to be loaded with a sizeable load of marijuana, which determination was made by what HOLMES described as an illegal search. HOLMES advised that knowing such was the case and the evidence would be thrown out because of it, the best he could do as district attorney was to arrange for the defendants to pay a large fine, $400,000, with no time to serve for the defendants. HOLMES advised as a result, the press, who did not understand the foregoing, was extremely critical of HOLMES, insinuating that dopers could get caught in Forrest County and simply get away with a fine. Additionally, HOLMES explained that prior to his serving as district attorney, he had been one of several prominent individuals who were investors in the HOLIDAY CASINO in Las Vegas, Nevada, and as such was listed, as were all the investors, on the gambling license of that particular casino. HOLMES advised rumors among the populace of Forrest County were that he was mafia connected by virtue of the fact he had business interests in Las Vegas. HOLMES advised he therefore was very sensitive to this criticism by the press in his handling of the aforementioned truckload of marijuana.

HOLMES advised in the framework of this criticism and his sensitivity that in August of 1980 he learned through public information, i.e., newspaper and television accounts, that a plane loaded with a sizeable amount of marijuana had landed at the Hattiesburg Municipal Airport, and certain of those involved had been caught and arrested. HOLMES advised none of the law enforcement agencies involved in this arrest came forward to him for prosecution in this particular matter.

HOLMES advised a short time later, WILLIAM F. PORTER, a local Hattiesburg attorney, came to him claiming he represented DREW FAIRCHILD. HOLMES advised at the time of the plane's landing at the Hattiesburg Municipal Airport, FAIRCHILD was managing one of the aviation companies at the airport. HOLMES further advised it was rumored FAIRCHILD was involved in some way with the plane's landing at the airport. HOLMES advised PORTER wanted to know what HOLMES would do if the federal government handled the prosecution of those involved with the plane, including his client, DREW FAIRCHILD.

HOLMES advised it had always been his policy to defer to federal prosecution, although he explained he was free to pursue prosecution locally if he so desired. HOLMES advised he therefore told PORTER he did not have any problem with the federal government handling prosecution of his client.

HOLMES advised as time moved on, he assumed all concerned were being prosecuted by the federal government and in fact was aware that three of those arrested in the aforementioned incident had been prosecuted and sentenced in the federal system.

As it regards DREW FAIRCHILD, HOLMES advised that through talking to BILL PORTER, GEORGE PHILLIPS, and representatives of the MISSISSIPPI BUREAU OF NARCOTICS, it was his understanding DREW FAIRCHILD was cooperating with the federal government.

HOLMES advised some time later, PORTER, in talking to him, mentioned FAIRCHILD had not paid him his fee for handling his case. HOLMES advised he was very close to PORTER, and this information angered him to the extent he called GEORGE PHILLIPS regarding the status of prosecution of DREW FAIRCHILD. HOLMES advised he learned from PHILLIPS that FAIRCHILD had not cooperated with the federal government as he was supposed to do and also learned PHILLIPS had no moral or legal obligation to FAIRCHILD. HOLMES advised PHILLIPS told him to "have at it," meaning to have at DREW FAIRCHILD. HOLMES advised this conversation with PHILLIPS was made telephonically. HOLMES further advised this telephonic conversation occurred some few weeks before he caused DREW FAIRCHILD to be indicted in Forrest County, Mississippi, which was in August of 1981.

HOLMES advised he had no idea as to the reason the government had not proceeded against DREW FAIRCHILD between August of 1980 and August of 1981. HOLMES advised apparently FAIRCHILD was supposed to cooperate with the federal government in setting up "buy-bust" situations involving others who traffic in drugs. HOLMES advised he learned through GEORGE PHILLIPS that apparently FAIRCHILD had made a couple of trips to Florida to set up some buys but apparently they had never gone through. HOLMES advised he assumed this was the reason for the delay in the government's prosecution of FAIRCHILD.

HOLMES advised he had decided he was going to proceed in prosecuting DREW FAIRCHILD as well as another individual by the name of ROBERT L. WATKINS, the pilot of the plane that landed at Hattiesburg but who had escaped without being arrested. HOLMES advised he assigned the prosecution of FAIRCHILD and WATKINS to one of his assistants, KATIE MATISON.

HOLMES advised MATISON was responsible for the drafting of and handling of the indictment of FAIRCHILD. HOLMES advised MATISON encountered extreme difficulty in obtaining testimony from agents of the MISSISSIPPI BUREAU OF NARCOTICS before the Forrest County Grand Jury in this indictment, and eventually he had to telephonically contact EDDIE DICKEY, Captain in Charge of the MISSISSIPPI BUREAU OF NARCOTICS, and threaten DICKEY with obstruction of justice in order to get the MISSISSIPPI BUREAU OF NARCOTICS agents to testify. HOLMES advised he had heard through rumor that DREW FAIRCHILD, during this period of time, had been seen drinking with MISSISSIPPI BUREAU OF NARCOTICS agents at JIMMY FAUGHN'S, a local lounge in Hattiesburg.

HOLMES advised that in any event, FAIRCHILD was indicted in the August term of the Forrest County Grand Jury and subsequently pled not guilty to the charge for which he was indicted.

HOLMES advised in December, 1981, WATKINS was arrested in Dallas, Texas. HOLMES advised he was notified by the local authorities in Dallas that he would have to furnish affidavits as to the identity of WATKINS, who was in a fugitive status, in order for them to continue holding him. HOLMES advised it was his understanding DREW FAIRCHILD was the only one who could identify WATKINS, and on being questioned as to why he did not consider the other defendants in this particular matter who had already been prosecuted by the federal government as affiants in the above-described situation, HOLMES advised he did not know why, and it just stuck in his mind that DREW was the one who should be used. HOLMES also suggested it might be because he was a poor prosecutor.

HOLMES advised he resolved the situation by calling BILL PORTER and actually lied to PORTER in saying that ROBERT WATKINS, who had been arrested in Dallas, was willing to cooperate with the Forrest County district attorney in testimony against DREW FAIRCHILD. HOLMES stated he told PORTER it would either be that way or it would be DREW FAIRCHILD agreeing to enter a plea of guilty to the charge for which he was indicted in August, 1981, and subsequently testifying against ROBERT WATKINS and to also signing an affidavit identifying WATKINS as the pilot of the plane that landed in Hattiesburg in return for his (HOLMES') recommendation before the court at time of sentencing to those terms to which FAIRCHILD had agreed in an understanding with the federal government. HOLMES advised he believed this was fair inasmuch as FAIRCHILD was a first offender, although he admitted he suspected FAIRCHILD had other involvements in drug trafficking.

HOLMES advised FAIRCHILD agreed to these terms and thereafter furnished an affidavit identifying WATKINS as the pilot of the aircraft. HOLMES advised FAIRCHILD subsequently entered a plea of guilty in Forrest County Circuit Court in January, 1982, to the charges for which he was indicted. HOLMES advised sentencing of FAIRCHILD was delayed until such time as FAIRCHILD had the opportunity to live up to his agreement and testify against WATKINS.

HOLMES advised in the meantime WATKINS jumped bail in Dallas and entered a fugitive status.

HOLMES advised his policy as district attorney and as a prosecutor was to never live up to his end of the bargain, in this case sentence FAIRCHILD, but rather would require the defendant to live up to his end of the bargain and testify as he agreed to do and then be sentenced with him making his recommendation. HOLMES advised in his experience too many defendants suddenly suffered a memory loss after they had been sentenced and it came their time to testify against others.

HOLMES advised in approximately December of 1982, WATKINS was still in a fugitive status, and therefore, FAIRCHILD had not yet been sentenced pending his testimony against him. HOLMES advised about this time BILL PORTER came to him saying he wanted HOLMES to dismiss the case against FAIRCHILD which HOLMES stated he refused to do. HOLMES further advised PORTER told him he did not trust RICHARD MC KENZIE, the individual who had just been elected as the new circuit judge in Forrest County, and as a result, was going to file a writ of habeas corpus relative to speedy trial for his client, DREW FAIRCHILD. HOLMES advised he was aware if PORTER filed such a writ, he could be compelled to sentence FAIRCHILD. As a result, HOLMES advised he decided to pass the FAIRCHILD case to the file, knowing it could be reopened in three years and would simply place the case in a holding status.

HOLMES advised this was the first time he had ever used this tactic in a case.

HOLMES advised in approximately January, 1983, Judge MC KENZIE, on taking the bench in Forrest County, had a public reading of the court docket, and when he got to the portion of the docket and read the case about DREW FAIRCHILD, he made some type of humorous remark which was overheard by members of the news media who were present. HOLMES advised the local television station subsequently came to his office wanting HOLMES to make some type of statement as to why he passed the FAIRCHILD case to the file, claiming he did so because DREW FAIRCHILD was the son of WILEY FAIRCHILD.

HOLMES advised the case remained passed to the file until such time as WATKINS was located in Miami, Florida, in January, 1983, at which time it was reinstated on the court docket.

HOLMES advised as a result of WATKINS' capture, WATKINS was set under $100,000 bond, and since that time, even though WATKINS' trial has been set twice, WATKINS has failed to appear and is currently in a fugitive status, resulting in a forfeiture of his bond.

HOLMES advised he had never had any direct or indirect contact with WILEY FAIRCHILD during the entire time he was prosecuting DREW FAIRCHILD. HOLMES repeatedly denied he had had any contact of this nature. HOLMES specifically denied he had personally met with FAIRCHILD, either in his office or FAIRCHILD's office, on the matter of his son, DREW FAIRCHILD. Furthermore, HOLMES denied WILEY FAIRCHILD had ever agitated with him in any way on DREW FAIRCHILD's case. HOLMES specifically denied he had ever gone to the office of WILEY FAIRCHILD to discuss with FAIRCHILD the treatment of any type publicity which FAIRCHILD might wish to make. HOLMES advised he had heard "street talk" that WILEY FAIRCHILD was going to the "TV people" during the time when he reinstated DREW FAIRCHILD's case on the court docket.

HOLMES advised shortly prior to leaving office that through CARROLL INGRAM and not directly, he got word to WILEY FAIRCHILD that DREW FAIRCHILD could go on and be sentenced on the charge to which he had pled guilty while HOLMES was district attorney and receive the recommendations that HOLMES had agreed on or take his chances with a new district attorney, over whom HOLMES would have no control and who might or might not make the recommendations as agreed between him and FAIRCHILD. HOLMES advised the decision of WILEY was that DREW would take his chances. HOLMES, on being questioned as to this particular procedure, advised he had several cases of a similar nature which he did not want hanging over his head when he left office and tried to dispose of them before doing so. When questioned as to why HOLMES did not confront FAIRCHILD in the presence of his attorney or via letter to DREW FAIRCHILD and make this option known to DREW FAIRCHILD, HOLMES advised this was simply the way he did business.

On being directly questioned as to whether he had ever had occasion to appear with Judge RICHARD MC KENZIE in WILEY FAIRCHILD's office, HOLMES advised he had at a time shortly before leaving his office. HOLMES offered no explanation as to why he had not made mention of this meeting on being directly asked in previous questions as to whether or not he had ever had occasion to meet directly with WILEY FAIRCHILD and discuss his son's case.

HOLMES explained that at approximately 6 AM one morning prior to leaving office, he contacted telephonically Judge MC KENZIE, asking MC KENZIE to accompany him to meet with WILEY FAIRCHILD. HOLMES advised MC KENZIE did so, and on meeting with FAIRCHILD at FAIRCHILD's office, he explained to FAIRCHILD that his son, DREW, had the choice of being sentenced now while HOLMES was district attorney or to taking his chances with the new district attorney. HOLMES advised he had made no effort to communicate directly with DREW FAIRCHILD and advised there was no documentation of the meeting between him and WILEY FAIRCHILD while he was accompanied by Judge MC KENZIE. HOLMES advised he was concerned WILEY FAIRCHILD thought he had a personal vendetta against him and his son, DREW FAIRCHILD, and wanted WILEY FAIRCHILD to know that was not the case. HOLMES advised interviewees apparently do not understand the workings of a small community where everybody knew everybody, and he recognized WILEY FAIRCHILD to be a wealthy, influential member of the community and did not want him to think he had a personal vendetta against him or his son. HOLMES advised the reason he asked Judge MC KENZIE to go with him was simply because he wanted a witness to what he said. HOLMES advised he did not know why he did not take his assistant, KATIE MATISON, or a court reporter to utilize as a witness.

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Continuation of interview of PAUL H. HOLMES Page 9

Regarding Judge NIXON, HOLMES advised he was aware that Judge NIXON had bought oil property from WILEY FAIRCHILD, having learned of this from Judge NIXON at a time prior to the purchase. HOLMES reiterated he and NIXON were close personal friends, and Judge NIXON had told him of his anticipation to purchase this oil property and inquired of HOLMES as to the validity of WILEY FAIRCHILD and also of CARROLL INGRAM, through whom the purchase was effected. HOLMES advised he knew of no details as to this oil property transaction and volunteered he did not know if this transaction occurred prior to or subsequent to DREW FAIRCHILD's involvement in the above criminal action. HOLMES advised it was his belief CARROLL INGRAM put Judge NIXON in this deal out of INGRAM's friendship with Judge NIXON.

HOLMES advised CARROLL INGRAM was involved in DREW FAIRCHILD's case as a representative of WILEY FAIRCHILD, "never as a representative of DREW FAIRCHILD," in one of two ways. HOLMES advised he seemed to recall BILL PORTER came to him saying CARROLL INGRAM was involving himself in the case one way or the other, and he also seemed to recall CARROLL INGRAM called him relative to DREW FAIRCHILD's case on behalf of WILEY FAIRCHILD. HOLMES advised INGRAM's involvement was one way or the other but could not say for sure which one.

HOLMES advised he has never discussed the DREW FAIRCHILD case with Judge NIXON and/or GEORGE PHILLIPS.

HOLMES advised it was his opinion that no money had ever changed hands, either on the state or federal level, for the purpose of influence or bribery in connection with the handling of the DREW FAIRCHILD case.

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See p. 70
7.18.84

Do you solomenly swear that the testimony you are about to give in this cause pending before this court to be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS:

I do.

WILEY FAIRCHILD,

having been first duly sworn, was examined and testified, as follows:

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 30

EXAMINATION

BY MR. RICHTER:

Q. Please state your name.

A. Wiley Fairchild.

Q. Mr. Fairchild, my name is Robert Richter. We have met before; is that correct?

A. Yes, sir.

Q. With me is Reid Weingarten, who is also an attorney with the Department of Justice. The people before you are members of the federal grand jury sitting in the Southern District of Mississippi.

Mr. Fairchild, you were subpoenaed to appear here today; is that correct?

A. Yes.

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Q. And do you understand that you have a right not to answer any questions the answer to which might incriminate yourself?

A. Yes.

Q. And you realize that you have the right to be represented by an attorney but that attorney cannot accompany you into the grand jury room?

A. Yes.

Q. And are you in fact represented by an attorney today?

A. Yes.

Q. And is he present outside the grand jury?

A. Yes.

Q. Is that Karl Kepper?

A. Yes.

Q. And you should understand that if at any point in the questioning you feel a need to consult with Mr. Kepper, we will permit you to leave the room within reason. Obviously, not after every single question, but we will permit you to leave the room to consult with your attorney.

Do you understand that anything you say before the grand jury can be used against you in a

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subsequent proceeding?

A. Yes.

Q. What is your address, Mr. Fairchild?

A. 100 Fairlane Drive, Hattiesburg.

Q. How long have you lived in Hattiesburg?

A. Oh, approximately 30 years.

Q. Where did you live prior to that?

A. I was in construction work and traveled over the southern states.

Q. What is your present occupation?

A. I'm principally in the oil exploration.

Q. Do you have a position in a company of some sort?

A. The Division of W. R. Fairchild Construction Company.

Q. What is your position with the Fairchild Construction Company?

A. Well, I'm a general partner and-- but I'm-- my brother is in charge of the construction company and I'm in charge of the oil division.

Q. Is it fair to say that you are the head man in the W. R. Fairchild Construction Company at this point?

A. No, not exactly. Me and my brother work real close together, but I'm the head man in

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the oil division and he runs the construction company.

Q. How many-- and you have, obviously, an equity interest in both operations?

A. Yes, sir.

Q. Approximately how many people work directly for the construction could?

A. Oh, it'd just strictly be a guess. I'd say 50 to 80 or 90.

Q. What sort of things does the construction company build? Give a general idea to the grand jury.

A. Pile driving is principally what we do out of the Hattiesburg office. We got Fairchild Florida Construction Company at Monticello, Florida, who builds-- who builds the whole job, the bridges, principally bridge building.

Q. Is it fair to say that there is a considerable amount of mineral rights owned by your company?

A. Yes.

Q. If-- approximately how much business does the Fairchild-- approximately-- could you give an approximate value of the oil holdings of the Fairchild Exploration group or the Fairchild company that owns mineral interests?

A. Repeat that question.

Q. Could you give an approximate value of the mineral interests owned by your company?

A. Oh, by the-- oh, I would say 20 or 25 million.

Q. Approximately-- I mean, again, I realize this is a difficult question-- how many distinct oil properties, mineral properties, would your company own?

A. We have an interest, I would think, in some four or five hundred wells. Some of them, just a little bit and others it'd-- but oil properties that-- oh, it would be-- just be a wild guess. Maybe-- maybe a thousand, or it could be more. I just, you know, just never--

Q. Is it fair to say that you have been a very successful-- very successful over all in your business enterprises?

A. Yes. Yes.

Q. And would you say for the most part that you have done this yourself in the sense that you are-- it's a reflection of your skill as a businessman, the results in terms of your present holdings?

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A. It's the result of me being able to go out and get advice from other people, what to do and what not to do in the oil business.

Q. Is it fair to say that you have a reputation as being a very shrewd businessman in the oil business?

A. Well, I would say that but I'm considered to be a sucker, too, for some-- for some oil companies.

Q. Is it fair to say that you are generally considered a very wealthy man?

A. Well, that's what the public thinks, yes.

Q. Is it fair to say that in terms of what most of us are probably worth that you are a wealthy man?

A. Yes.

Q. Mr. Fairchild, you were asked in your subpoena to bring various documents with you today. Did you bring anything pursuant to that subpoena?

A. Yes.

Q. Can I at this time get the documents that you brought?

A. Yes (indicating).

Q. At this time we will attempt to

identify and mark the various exhibits.

The item that I have just marked Grand Jury Exhibit Number 1, is this one of the items that you just produced?

A. Yes.

Q. Could you describe it? Is this a three page-- three pages stapled together?

A. Yes.

Q. Could you describe to the grand jury briefly what that is? I think you needn't explain in great detail, just--

A. It's a note.

Q. -- just describe it.

A. It's a note from Walter L. Nixon, Junior.

Q. The heading is a Negotiable Promissory Note?

A. Yes.

Q. I think, to save time, Mr. Fairchild, what we'll do is we will put the sticker on the folder that you brought and have all your papers be Grand Jury Exhibit 1. And can you very briefly describe what other documents are in here (indicating)?

A. That's a royalty-- these are the

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royalty deeds (indicating)

Q. Those royalty deeds from--

A. Yes.

Q. -- from property from you to Walter L. Nixon?

A. That's from Fairchild-Windham Exploration Company.

Q. Are you the principal in Fairchild-Windham Exploration Co.?

A. No, I'm a minority.

Q. What is the next group of papers?

A. That is some checks that were where Walter Nixon paid us.

Q. The next group of papers?

A. That is the income from the L. B. Ross well.

Q. Those are-- this is one of the wells in which you gave an interest?

A. Yes.

Q. Sold an interest to Judge Nixon?

A. Yes.

Q. What is this group of papers?

A. Wait a minute, I was wrong. That's-- this, I believe-- I believe this is the-- this is the Rogers well (indicating), this is the L. D.

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Ross well (indicating), and that is the Wilkey well (indicating).

Q. Okay. The final document is the subpoena that Mr. Fairchild received. Is that correct?

A. Yes, well--

Q. That is not a document you are producing pursuant to the subpoena; is that correct?

A. No, I-- my expense account is here.

Q. Mr. Fairchild, the subpoena you received asked you to bring any and all records, notes, checks, logs, ledgers regarding any business dealings between yourself, companies in which you have an interest, and Walter Louis Nixon, Junior, including, but not limited to, records of all royalty payments received by Walter Louis Nixon from the L. D. Ross well in Covington County, Mississippi, the Getty Rogers well in Marion County, Mississippi, and the C. E. Wilkey well located in Mobile County, Alabama.
Are the documents you just gave me all the documents in your possession or control responsive to this request?

A. -To the best of my knowledge. I've got

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my controller and I got my secretary, and they say that's all that they have and certainly it's all that I know anything about.

Q. Mr. Fairchild, do you have a son named Reddick (phonetic) Fairchild?

A. Yes.

Q. And is he known by many people as Drew Fairchild?

A. Yes.

Q. Can you generally characterize your relationship through the years with Drew?

A. He is-- I have tried to take him and make something out of him and give him a job, and he quit. I give him another job and he wouldn't work and I would have to fire him, and he's been a liability all the last 20 years.

Q. Has there been any affetion, though, at any point between you and he?

A. Well, he's my son but--

Q. Did there come a time when you became aware that Drew was implicated in a narcotics case?

A. What?

Q. Did there come a time in the past four years or so that you became aware that Drew was implicated in a narcotics case?

A. Yes.

Q. When did you first find out?

A. Oh, sometime after the plane landed out here at the Hattiesburg Airport. I don't remember how long afterwards.

Q. Was it a matter of days, weeks or months to the best of your recollection?

A. Oh, I wouldn't-- it wasn't in days and I don't think it was in months. It might have been a month or something like that, I just don't remember.

Q. How did you first find out?

A. I don't remember.

Q. Did-- were you aware of the drug bust at the airport when it happened because of the newspaper publicity?

A. Yes, yes.

Q. And you were aware that Drew had connections with the airport where the bust was made; is that correct?

A. Well, he was one of the co-managers out there.

Q. Now, did you ever discuss with Drew the-- his possible involvement in the narcotics case?

A. Ah, well, just before-- yeah, after a

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while there I did.

Q. What would have been the context of those discussions?

A. Would-- we'd be talking about an attorney, I think.

Q. This-- what would have been the discussions when you say "talking about an attorney"?

A. Well-- well, what attorney to get.

Q. Did you talk to any attorneys on his behalf or any attorneys talk to you regarding Drew?

A. What?

Q. Did you talk to any attorneys regarding representation of Drew?

A. Did I talk to'em?

Q. To any attorneys regarding representation of Drew?

A. Oh, from time to time, but I didn't talk to them-- I didn't-- I wasn't the one that hired them as I remember.

Q. Pardon?

A. I wasn't the one that hired them, you know. I talked to Bill Porter and I talked to Carroll Ingram from time to time. ✓

Q. Are you aware of who it was that

eventually came to represent Drew?

A. I'm sorry?

Q. Are you aware of what attorney eventually came to represent Drew?

A. Yes.

Q. Who was that?

A. Well, Bill Porter was representing him when he made a deal with George Phillips.

Q. And that was in-- on November 25, 1980 to the best of your recollection?

A. I would say that. Well, I don't remember the dates, I'm not-- I'm just foggy on them dates.

Q. And George Phillips, for the benefit of the grand jury, is the United States Attorney and was United States Attorney for the Southern District of Mississippi?

A. Yes.

Q. And his office is in Jackson?

A. Yes.

Q. And it's your understanding that Drew went with Bill Porter, as his attorney, to make a deal with George Phillips?

A. Yes.

Q. And were you aware at that time that he

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was going to do that?

A. I don't recall whether I was aware of it-- I was aware of it or not.

Q. Do you recall when you became aware that he had gone to the U. S. Attorney's office?

A. Well, if I didn't know it, that he was going that day, and I probably did, but I knew it that night when he got back.

Q. So it was your understanding that Drew had more or less placed his fate in the hands of the federal prosecutors?

A. Well, he was taking advice from his counsel, I think. That's the way I understood it.

Q. Do you have any knowledge as to how Drew came to be represented by Bill Porter?

A. Well, not first time, I don't. But the second time, when he got indicted by the Forrest County grand jury, I'm aware of that.

Q. Now, do you know-- did you know when he got indicted by the Forrest County grand jury?

A. Yes.

Q. Approximately when was that?

A. Well, them dates, I can't--

Q. Would that be-- does it sound right to you that it was in August of 1981?

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A. Yes.

Q. What was your understanding as to the status of Drew's case between the time he made the plea agreement with the U. S. Attorney's office and the time he was indicted by the district attorney in Forrest County?

A. Well, I didn't know what the status of it was. I assumed that they was waiting to catch something, somebody, where he could testify against them.

Q. In other words, you thought that his case was being handled by the federal prosecutors and that's where--

A. Oh, yeah. Yeah.

Q. -- his case would be handled?

Now, very briefly, do you know a man named Bud Holmes, known as Bud Holmes?

A. Yes.

Q. And is it your understanding he was the district attorney in Forrest County from approximately 1980 to 1984, thereabouts?

A. Yes.

Q. And do you know, Mr. Holmes?

A. Yes.

Q. Can you describe your relationship with

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him?

A. Well, I never did have much relationship with him until Drew was indicted.

Q. What was the first time you spoke to him regarding Drew's case if you remember?

A. Well, he called me about-- one evening between five and six o'clock and--

Q. Is this before or after Drew was indicted by Bud Holmes?

A. He'd just been indicted.

Q. He'd just indicted?

A. Yeah.

Q. And what was the nature of that conversation?

A. He says, "Your son Drew's just been indicted and tell him to come on down and I'll release him on his on recognizance but he needs to get an attorney. Bill Porter or Carroll Ingram or whoever."

Q. We'll get back a little later to your subsequent contacts with Bud Holmes.

Do you know a man named Carroll Ingram?

A. Yes.

Q. And is he in any way related to you?

A. Yes.

Q. How would that be?

A. Well, we're second cousins.

Q. Your father and his father were first cousins or something like that?

A. His father-- His-- his-- his grandfather and my mother was brothers and sisters.

Q. And is it fair to say that your kinfolk and Mr. Ingram and his kinfolk come from the same part of Mississippi, generally?

A. Yes.

Q. And what-- is that the area around--

A. Seminary.

Q. Pardon?

A. Seminary.

Q. Okay. And that's up north of Hattiesburg?

Q. Yes.

Q. And what county is that in?

A. Covington County.

Q. What is Carroll Ingram's occupation today?

A. An attorney.

Q. Is it fair to say he is a fairly prominent attorney in Mississippi?

A. Yeah.

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Q. And that he was a very prominent state senator until 1980?

A. Yes.

Q. I believe he was, I think it was, chairman of the senate judiciary committee. Does that sound right to you?

A. Well, he's chairman of some committee but I just don't recall exactly what. But he's very prominent.

Q. And at present he's in privte practice in Hattiesburg; is that correct?

A. Yes.

Q. And approximately how old a man is Carroll Ingram?

A. Oh, I'd say he was in his late thirties or maybe early forties.

Q. Did you play any role in-- have you ever provided financial assistance to Mr. Ingram either when he was going to law school or any other time?

A. Yes. I provided the money when he-- for him to go to law school. And then when he got up there, he needed some money for his wife to get another degree where she could make more money teaching school.

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Q. Is it fair to say Mr. Ingram has been actively involved in Mississippi politics?

A. Yes.

Q. What was his relationship to, I believe, Mrs. Gandy who recently ran for governor?

A. He was the campaign coordinator and the campaign manager.

Q. Did you at some point donate any money to Mrs. Gandy's efforts?

A. Yes.

Q. Approximately how much did you donate?

A. Well, we talking about all the-- all the Fairchild's was, the ones that owns the construction company. I-- we just got the audit in and I think it's two hundred and ninety-nine thousand dollars.

(Grand juror whistles.)

MR. RICHTER:

Q. Is it about three hundred thousand dollars?

A. Yes.

Q. Is it fair to say that in the past you have been extremely generous with various politicians in terms of your donations?

A. Yes.

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Q. And that you've-- can you explain to the grand jury why you would make such large contributions to political campaigns?

A. I can't give them a sensible answer, no.

Q. Well, is it fair so say that among the reasons is the fact that generally in Mississippi the way things work is that if you make a substantial campaign contribution that you will at least be looked upon kindly by the people in power?

A. Oh, yeah. Yeah, that's-- that's--

Q. Is that a correct statement?

A. Yeah, that's a--

Q. Is that?

A. -- correct statement.

Q. And is that among the reasons that have motivated you in the past for making large campaign contributions?

A. Yes, but it wouldn't have been necessary to make that big of a contribution to get recognized. That's what I had in reference to awhile ago.

Q. But, in other words, it's helpful in the nature of your business, particularly the construction business and other things, to have state government-- to have friends in high places

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in state government. Is that a fair statement?

A. No, I didn't contribute to that and it's not-- yes, it's good to have friends in government, but-- but-- and I have been-- but what I'm trying so say, I didn't contribute to try to get something, looking for something out of it.

Q. But you assumed that the people in state government would be more favorably disposed towards Wiley Fairchild. In other words, not that you wanted to get a specific contract but that you knew by making a very, very, very large contribution that the people who received the contribution, if they won the election, would think more kindly toward you and your business interests.

Is that a fair statement?

A. Well, I can't digest that. You've mentioned your contracts that-- highway contractor, he's got to be low before he gets a bid. They advertise the bids and you bid on them on a certain date and if you're not low, you just don't get the job.

Q. Well, what I'm staying, I'm not talking now specifically about getting a contract. I'm talking about the many other things that state

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government can do, be it passing laws, enforcing--

A. Oh, yeah, it helps in getting laws passed, yes.

Q. In other words, what other politicians would you say you have made contributions of over fifty thousand dollars to in the state of Mississippi?

A. Oh, well, it's so long, I made-- according to William Waller, I made a large, large contribution to him. I don't remember how much, you know, at different times, it was, but he said it was the largest one that'd ever been made at that time.

Q. Is it fair that a lot of people consider you a touch and that if they're running for office they come to you to try to get a lot of money?

A. Yes.

Q. And that you'll oblige them if you think it's in your interest?

A. But they got to convince me that-- that they going to do what's the best interest for Mississippi before I do it.

Q. Would that generally coincide with Wiley Fairchild's interest?

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A. Well, yeah, yeah.

Q. Is it fair to say that you have made a number of contributions to politicians of over fifty thousand dollars?

A. No. No, I don't recall, but-- but two. And that's Governor Waller and Evelyn Gandy.

Q. Would there be many, say, over ten thousand dollars?

A. Oh, there'd be several, yeah.

Q. So it's fair to say that when you made-- what was Carroll Ingram's relationship to Mrs. Gandy during her election?

A. He was the campaign manager. He handled the finances.

Q. Are they presently in the same law firm?

A. Yes, I understand they are.

Q. And did he play any role in the payment of the contribution-- in the solicitation of your contribution to Mrs. Gandy?

A. Very much so.

Q. Do you know Judge Walter Nixon?

A. Yes, I know him.

Q. Is it fair to say that you are aware that he is the chief judge of the U. S. District Court for the Southern District of Mississippi?

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A. Yes.

Q. How long have you known Judge Nixon?

A. Oh, I hadn't met him over three or four times. I think when he was first sworn in that they had a reception out here and I think I was at that reception, but it was a federal judge but I don't-- I'm not sure it was him.

Q. Now, would it be likely-- is Walter Nixon friends with Carroll Ingram to your knowledge?

A. Well, I understand they are, yes.

Q. Do you have any knowledge whether Walter Nixon is friends with Bud Holmes?

A. Well, I understand they are, yes.

Q. Mr. Fairchild, earlier you testified that your company owned a large number of mineral interests; is that correct?

A. Yes.

Q. Now, what is the name of the company that is sort of a holding company for these mineral interests?

A. Fairchild-Windham is one of them and W.R.C. Corporation is another one and-- but W. R.-- W.R.C. is a small company and then Oil and Gas Minerals is a small company. It'd be very

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insignificant.

Q. Is there any particular reason why one of these companies rather than another would purchase mineral interests? In other words, let's say you became aware there there's a good property to be had. What would determine which of these companies makes the purchase?

A. Ah, a fellow, Windham, owned about twenty-five thousand mineral acres and about five thousand lease acres, and I bought him out. And it's just very seldom that we put anything in that company. And as far as for the last several years, we put everything into the construction company.

Q. Is it fair to say that you are the chief operating officer in terms of your companies' mineral interests?

A. Yes.

Q. And that you are the one that makes most of the decisions when it comes to mineral interests?

A. Yes.

Q. And that you oversee the activities of other employees that deal with mineral interest?

A. Yes.

Q. Now, directing your attention back to

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the period of time around 1981, who were the employees in your company who assisted you in handling accounting, for paperwork, the mineral interests that you owned?

A. Lynn Smith.

Q. Who is that?

A. She's-- well, she's Lynn Jones now. She's-- a Robert "Skip" Jarvis.

Q. What was the name? Lynn Smith? She's married and now Jones or--

A. Yeah.

Q. -- or divorced and now Jones?

A. No, she's married to Jones.

Q. Married to Jones. Is she still at your company?

A. Yeah, she's the chief assistant.

Q. And at present she's chief assistant?

A. Yeah. Yes.

Q. And what was her role in 1981?

A. Well, I don't remember when she went down to the oil division. I mean the oil division is downstairs. But she was up in the-- chief secretary up in the-- on the first floor for a time. I don't remember what time I sent her down there but it's along about that time.

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Q. Okay. Now, just so it's clear to you what I'm doing, Mr. Fairchild, I'm going to skip ahead from the logical progression right now and ask you some questions and we'll come back to these things later. As I explained to you, we have a witness coming in at 3:30 that needs to testify this afternoon and has to go out of town. And that when that witness is completed, either today or tomorrow morning, you'll then be asked to return to complete your testimony. And so I just wanted to ask you a couple of questions before you left the stand at present.

Did there come a time when you transferred various mineral interests to Walter Nixon?

A. Yes.

Q. Briefly, what is the origin of that transaction?

A. What is what?

Q. The origin of that transaction. Who approached who, how did the transaction take place?

A. You mean why did it take place?

Q. Yes, sir.

A. Carroll Ingram asked me to put the judge in an oil deal.

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Q. And Carroll Ingram is the lawyer whose the second cousin of yours?

A. Yes.

Q. And he asked you to put the judge in an oil deal?

A. Yes.

Q. And did you ever meet with Judge Nixon to discuss that?

A. I don't ever recall discussing it with him.

Q. Was the deal then, the terms of deal, negotiated between you and Carroll Ingram?

A. It had to be. It had to be, but I don't remember discussing prices with him. Now it might have been that-- well, I just don't remember.

Q. Do you remember who drafted the deeds that formalized the transaction?

A. I'm almost positive we did it in our office and sent them to Carroll Ingram's office.

Q. Who would have done it in your office? Who would have prepared the deeds?

A. Well, it could have been that Lynn Jones, or Lynn Smith, or any of the other secretaries.

Q. I believe you once told us it might

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have been "Skip"; is that correct?

A. Yeah, it could have been "Skip" Jarvis. . ✓

Q. Now, the deeds that were included in Grand Jury Exhibit Number 1, that you turned over to me today, are dated executed February 25th, 1980; is that correct?

A. Yeah, whatever-- whatever the date you--

Q. Do you need to see that (indicating)?

A. No.

Q. What does the-- what is the date it says your signature's on there?

A. Twenty-fifth of-- of February '80.

Q. Is that in fact the date that these deeds were executed?

A. I would say so. Well, I just don't know. We drew them up and I believe drew them estimates up and I remember that-- that-- ✓

Q. Do you have any recollection it was "Skip" Jarvis that drew those deeds up? I believe you told me that one time.

A. No, I don't have any recollection but I'm-- whether it was him or who had done it. It was-- it could have been him or it could have been one of the others.

Q. Do you remember once you got it, I

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believe you said, it was sent over to Carroll Ingram?

A. Yes.

Q. What happened next?

A. Well, I remember I come in there and the papers was over there and somebody told me, said, Carroll Ingram said back date'em.

Q. Who was "somebody"? Was it Carroll Ingram himself that told you?

A. No, no, it was not.

Q. Did you not tell me at one time in your office that Carroll Ingram told you to back date those deeds?

A. I might have but he-- he-- I might have but he did not tell me to back date'em.

Q. Why might you have told me in your office that it was Carroll Ingram?

A. I understood you to ask me, "Why did they back date'em?" And I said, "Carroll Ingram said back date'em," but he didn't tell me. But the reason it was back dated was because the word come to me that Carroll Ingram said back date'em.

Q. Is it possible that the time these things were actually executed was one year after that February 1981?

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A. Now, what?

Q. Is it possible that the actual date of these transactions was February 1981?

A. Yeah, yeah, it's possible.

Q. And that they were back dated approximately a year?

A. Yeah, that's possible, yes.

Q. And that the reason they-- they were back dated in your office; is that correct?

A. The best of my recollection, yes.

Q. And your instructions based on what Carroll Ingram instructed?

A. Well, the way something like that happens is you put something down there and somebody says-- you turn, says, "Oh, So-and-so," and okay. You know, that's the way that thing-- you just have to--

Q. But it's your testimony that it was back dated based on Carroll Ingram's say so?

A. Yes.

Q. Do you have any idea why Carroll Ingram told you to back-- have these back dated?

A. No. No.

Q. And you did it just because he said to do it?

A. Yes.

Q. Do you have any idea why the date of February 25th, 1980 was selected?

A. No

Q. Now, if in fact the actual date of these documents was February 1981, that would have been at the time Drew's case was still live before the federal courts. Right?

A. I don't-- I don't have the time-- well, that, no, I can't answer that but-- I can't answer that but--

Q. I believe you testified that after Drew made his deal with the U. S. Attorney's office and until Drew was indicted by the DA's office it was your understanding that his fate was in the federal system?

A. Well, it didn't-- it didn't cross my mind that-- that-- it didn't cross my mind that that-- that it was still in the-- you know, he just asked me to get him a-- put him in that deal and these things just went on and transpired.

Q. Now, this turned out to be a very good deal for Judge Nixon; is that correct?

A. Yes.

Q. And, basically, let me-- you

familiarized yourself with the particulars of the transaction before coming here; is that correct?

A. Yes.

Q. Is it fair to characterize that he-- at the time that the deal was made, he paid you nothing; is that correct?

A. That's right.

Q. And at some point promissory notes were executed, three promissory notes, totaling ninety-five hundred dollars; is that corret?

A. Well-- well, yeah.

Q. And that he made no payments on any promissory note until after he had received his first royalty payments from the transferred royalty interests; is that correct?

A. I think that's what the records will show, yes.

Q. And, indeed, he received more in royalty interests than he needed to pay when he made the first payment, and his first payment was sometime in 1982; is that correct?

A. Yeah.

Q. And that to this date he has received well over forty thousand dollars in the transferred-- from the transferred intersts; is that correct.

A. The amounts in the file, yes.

Q. This was all for basically a promissoroy note for ninety-five hundred dollars that he paid?

A. Yeah.

Q. So it turned out to be a rather good deal for Judge Nixon; is that correct?

A. Yes.

Q. Is it fair to say that when Carroll Ingram approached you that it was your desire to give a good deal to Judge Nixon?

A. Well, I would have hated to put him in a deal that wouldn't have paid out. I'll put it that way.

Q. And why would you have wanted to give him a good deal?

A. Well, I wouldn't want the case before him or no other judge that I had give a bad deal.

Q. So by giving him a good deal, you figured that it would put you in good stead in case there was ever a matter before him?

A. Well, he's a human being. He's a human being.

Q. So, basically, you gave him a good deal because he was a federal judge and you wanted to be sure that if you ever had a matter before him he would be friendly towards you. Is that fair to say?

A. Well, yes, I would say that's a fair statement.

Q. Much the same motivation as some of the campaign contributions: that it's better to have people in power look towards you kindly--

A. Yeah.

Q. -- than to look towards you as being just another person on the street? Is that fair?

A. Yes, that's fair. But I never considered it any shape, form, or fashion as a bribe or might be a bribe.

Q. But you were aware of the fact that Drew's-- at that time Drew's case might go into the federal courts; is that correct? That there was a possibility?

A. Mr. Richter, it didn't cross my mind the judge-- because me and my, I was so outdone with him I wouldn't have much given a damn whether he went to the pen or not. It did not cross my mind that I was doing something that would protect him.

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Q. Well, you did end up paying for his attorneys, didn't youu?

A. Yeah, but I made him sell everything that he had, deeded it to me, that was worth anything.

Q. It's fair to say that you knew that Judge Nixon was close friends with Bud Holmes, the DA in Forrest County; is that correct?

A. Oh, yeah, everybody, I assume, known that.

Q. And you knew he was close with the U. S. Attorney also?

A. Yeah, yeah.

Q. Among the documents you turned over today were things that you previously described as the promissory notes from Judge Nixon; is that correct?

A. Yeah.

Q. Who drafted those notes?

A. I think Carroll Ingram drafted them or-- I'm almost-- well, it had to be him, it wasn't-- it wasn't done at our office.

Q. Who provided Carroll Ingram with the terms to put in the promissory note?

A. I could not say. I could have--

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Q. Where--

A. I could have, but I don't remember it. But, based on the wells performance, it-- it would be in three different notes and that's the way the values has turned out to be.

Q. So these things were drafted after you had some idea-- the amounts were drafted after you had some idea of how much the wells were producing?

A. Well, some of them had been-- maybe one or two of them had been tested but none of them, the best of my recollection, was a sure thing at the time. When-- when you produce a well, you got to-- it's got to produce a while to establish, you know, how good it is.

Q. Well, at the time you transferred these to Judge Nixon, did you-- were you pretty certain that they were going to be producing wells?

A. Well, let me answer it this way. The reason I put him in three wells, even if two of them went bad, the one well should have paid out.

Q. All right.

A. So that was the reason for putting him in three, so that he would-- that it would be well enough to pay out.

Q. It's fair to say in your-- when you

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went to enter this transaction with Judge Nixon at Carroll Ingram's behest, it wasn't your goal to make money. In other words, you didn't need this ninety-five hundred dollars that you have loaned him to get the royalty interest?

A. Well, repeat that again.

Q. Your motivation in making this deal with Judge Nixon wasn't so that you would come out ahead financially?

A. No, although I made a substantial profit, but that wasn't--

Q. You made a profit on the other wells, you didn't make a profit on the ninety-- the royalty interests you transferred to Judge Nixon, did you?

A. Oh, yes, sir.

Q. How did you make a profit on that?

A. Well, based on what it cost me.

Q. Well, I'm saying in terms of the fact that he has made-- that what you eventually-- what you transferred to him in 1981 has proven to be worth more than he eventually paid you; is that correct?

A. Oh, yes. Oh, yes. It was a good deal.

Q. If you were-- it was good deal for him?

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A. Yeah.

Q. And if you were advising a young man getting into the oil business on making good deals, this is not the kind of deal you would tell him to make unless he had a reason to make it?

A. Well, I can't imagine it, never have in my lifetime, a situation just like that come about but--

Q. You had--

A. -- had I known that it was going to be that good, I would certainly charge more for it.

Q. So when did the values get set on the promissory note?

A. I don't remember.

Q. How would they have been set? Was there a negotiation to how much he would pay?

A. Well, there I have to say again, I don't remember how we arrived at that figure. I just simply don't remember.

Q. When was the first time you saw those promissory notes?

A. Oh, well that, I don't--

Q. Is it-- is it-- is it not true that these promissory notes didn't come into existence until well after the deeds were executed and

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transferred?

A. Well, I didn't see the promissory notes until-- until Don Lawless visited the office. That's the first time I saw'em.

Q. In other words, you had no-- you didn't care whether or not you had gotten anything in return for these three wells, you really weren't that interested?

A. Well, of course I always like to get my money back but I certainly wouldn't have-- if the wells hadn't turned out and paid out, I certainly wouldn't have pressed-- entered suit for collecting it.

Q. Even when they did pay out you didn't press for collection, did you?

A. Huh?

Q. You didn't-- I mean, you have other people that are your debtors; is that correct, that you keep accounts?

A. Yeah. This case with him, it's I turn it over to "Skip" Jarvis and-- turned it over on "Skip" Jarvis, and of course I'd see the checks as they come in and the mail as it come in every day but I never did question.

Q. Did you make any effort, when this

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transaction first occurred, to prevent people in your employ from knowing that you were transferring-- that these wells were being transferred to Judge Nixon?

A. No, sir.

Q. Did you not-- were these deeds not, your instruction, asked to be drawn up in blank and the grantee part such that the person drawing them up would not know who they were for?

A. No, I don't remember nothing like that.

Q. Possible, you don't remember, or it didn't happen?

A. I don't remember it happening. I don't remember it happening. I do remember "Skip" Jarvis saying we better keep this quiet, we better keep it quiet, but that never--

Q. At what point in time was that? Was that when the deeds were drafted?

A. That was sometime, I don't remember.

Q. Well, when you asked these things to originally be drafted did you tell the person that drafted them Walter Nixon was the recipient of the royalty interest?

A. Yeah, yes.

Q. You made no efforts to conceal from

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anybody there-- did you make any efforts to conceal the fact that you were transferring these wells to Walter Nixon and not Joe Blow or not somebody other than Walter Nixon?

A. No, I didn't make any effort.

Q. Was it something that you didn't care if-- did you care if anybody knew that you were doing this?

A. I knew it was going on the records in the courthouse and anybody can check it out. No, I didn't care for them knowing it.

Q. Is it fair to say that the particulars of the transaction, that it was not handled the way you would handle your normal arms length oil deal? In other words, this wasn't immediately put in your books in the way that a deal with somebody that you didn't want to win favor from would have been?

A. Well, it's just the books, it was the normal thing and I can't answer that. But I-- but I instructed nobody to keep this a secret. "Skip" Jarvis said we should and--

Q. At what point did "Skip" Jarvis say you should?

A. Well, I don't remember but at some

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point here--

Q. Was it the point when the deeds were first drafted or was it some point well thereafter?

A. Well now, here he mentioned it. He mentioned it. I don't remember him saying that at the time the deeds was drafted, but after this is come out, well, he said something about it. But that's--

Q. What was your reaction when he said that?

A. Well, I didn't-- it didn't worry me because I didn't think I had done anything illegal.

Q. Did you get upset with "Skip" Jarvis at that point?

A. Huh?

Q. Did you get upset at "Skip" Jarvis?

A. Nope.

Q. Mr. Fairchild, there's a lot more I would like to ask and the grand jury would like to ask you. As I told you earlier, we have to bring a witness in now. If you wish, you can continue to wait here. It's possible, I won't say likely, that we will be able to put you back on around 4:30, 5 o'clock. It's more likely that we won't get to you until tomorrow morning. What would be

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your wish? I don't want you to have to wait here.

A. Well, if we can't finish this evening, I'd rather wait until in the morning.

Q. Well, why don't-- you're still under subpoena and please return here tomorrow morning by 9 o'clock and wait in the same place you were at today, okay?

A. Okay.

Q. Thank you very much.

(Mr. Fairchild's testimony interrupted during which time testimony was given by Judge Walter L. Nixon, Jr.)

THURSDAY, JULY 19, 1984, 9:00 A.M.

(A QUORUM PRESENT)

A JUROR:

How late are we going to be here today?

MR. RICHTER:

At last 5:00, I would say. If we're in the middle of a witness, we probably won't cut it off but we'll be flexible.

We mentioned to you at the conclusion yesterday, somebody wanted to see the documents. I think what might be good, so we can get rolling, we'll start with Mr. Fairchild and when he's finished we'll take a break and leave the

Q. Did you ever discuss the royalty transaction with Judge Nixon face to face?

A. I don't recall ever discussing it with the judge.

Q. Did Judge Nixon ever come to your office during the period between, say, 19-- mid 1979 and 1982?

A. Yes.

Q. And how many times?

A. Oh, I don't remember. A couple of times I do remember.

Q. Well, what would you have discussed with him during those visits?

A. We just talked politics and general conversation.

Q. At no time did you discuss the royalty transactions?

A. No, I don't remember the royalty transactions coming up with Judge Nixon. If they had, I think I would remember it.

Q. But you do remember reaching the terms of the agreement with Carroll Ingram?

A. How the price-- he asked me to put him in there and I said yes, I would, but the terms of the-- I don't-- I don't have no recollection of how the price of that royalty was arrived at.

Q. Who decided what properties you would convey?

A. I did.

Q. And how was that decision conveyed to either Carroll Ingram or to Judge Nixon?

A. I believe that I conveyed that information to "Skip" Jarvis.

Q. How long after you had these discussions with Carroll Ingram regarding Judge Nixon's desire to obtain some interest did you tell "Skip" Jarvis to prepare the paperwork?

A. I just don't remember.

Q. Would it have been hours, days, weeks, months, or years, or what have you?

A. It could have been months.

Q. Could it have been minutes?

A. Huh?

Q. Could it have been hours after?

A. No. No.

Q. Could it have been days?

A. I don't think so.

Q. Why do you say that? Why would you have delayed in giving instructions? Why-- once you decided to convey these properties to Judge

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Nixon, why would you have delayed having the papers prepared?

A. Well, I was under the impression that Carroll was going to make out the assignments at the time. I have a faint recollection that Carroll was going to make out the assignments.

Q. Is the assignments what-- another term for the deeds?

A. Yes, that's-- they're one and the same.

Q. How would Carroll have known what to put on the assignments?

A. Of course we would have furnished him the descriptions from our office.

Q. Pardon?

A. We would have furnished him the descriptions from our office.

Q. Well, did you ever do that? Did you tell somebody to furnish the information?

A. Well, that's what I just can't pin down. But at the time that-- that-- that was my intention was to furnish him the-- the descriptions of the properties and let him make out the assignment but it developed that we-- that "Skip" Jarvis done it or had somebody to do it.

Q. What-- when-- why was it that you

finally told "Skip" Jarvis to prepare the deeds?

A. What?

Q. Why did you eventually tell "Skip" Jarvis to prepare the deeds?

A. Well, I had committed and-- committed and-- and he was just, you know, carrying-- finished carrying out the transaction.

Q. Well, you said you were waiting. You didn't do it because you thought Carroll Ingram would do it. Why is it you stopped waiting?

A. Why I did what?

Q. You said that you didn't do it immediately because you thought maybe Carroll Ingram was going to make them up. Why did you stop waiting for Carroll Ingram to do it and go ahead and do it yourself?

A. Well, because-- because it hadn't been done.

Q. How long did you wait before you decided that maybe you shouldn't wait any longer?

A. Well, that I just don't remember.

Q. What do you remember about-- about the preparation of these?

A. Well, I remember we went through with the deal and we had the assignments made out there in the office.

Q. The original assignments that were drafted, do you remember what date was on those?

A. No, I don't.

Q. Who told "Skip" Jarvis what terms to put in the deeds?

A. I don't know. I could have told him but I don't remember

Q. I'm going to show you a copy of a document that I believe you turned a copy of over yesterday and ask you to describe to the grand jury what that is.

A. Well, that is a royalty deed, Fairchild-Windham Exploration Company.

Q. And did you sign that deed?

A. Yes.

Q. Is that the deed that "Skip" Jarvis would have prepared?

A. Yes, it's the one that somebody would-- somebody would-- would have prepared in the office there.

Q. Wasn't it "Skip" Jarvis' responsibility to do work like that at that time?

A. Yes.

Q. Do you have any reason to believe it

wasn't "Skip" Jarvis that prepared this at your request?

A. No. No, I don't have any reason to believe it wasn't him.

Q. Now, what is the-- is it correct that at the bottom it cites: Witness the signature of grantee this the 25th day of February 1980, and is that your signature under it?

A. Yes.

Q. Didn't-- did you sign that on February 25th, 1980?

A. Well, I don't- I don't-- I just don't know. These things happens ever day and they put'em up there and I sign the papers. I don't look at the dates or nothing, I just merely sign'em, go on.

Q. Well, was there no question in your mind as to what date should go on those deeds? Wasn't that an issue in their preparation?

A. Well, if you're getting to-- these royalty deeds was made out, was give to Carroll Ingram to send'em off to the courthouse and have'em recorded. And they was back in one of the trays one morning and--

Q. Explain to the grand jury what you mean by "back in one of the trays."

Q. Well, where we keep correpondence to be acted on.

Q. That's in your office?

A. Yes.

Q. Okay.

A. And somebody said Carroll said back date them instruments and--

Q. Well, in other words, is this what happened? "Skip" Jarvis prepared the deeds, at your request, with the actual date on them at the time he drafted them? Do you follow me so far?

A. (Witness nods head.)

Q. He gave you what he prepared and you conveyed them to Carroll Ingram at that time; is that correct?

A. I didn't, I assume "Skip" did.

Q. And that it's your understanding that the material came back from Carroll Ingram with the instructions to back date them?

A. Yes.

Q. And so, in other words, the original papers that were sent to Carroll Ingram would have had the date that the papers were actually drafted?

A. Yeah, yeah. Within a day or so, yes.

Q. And somehow or other "Skip" Jarvis then redrafted the documents to reflect a date of February 25th, 1980?

A. Yes.

Q. And, obviously, at the time you understood what was going on?

A. Yes, I understood what back dating meant but only-- but that word was coming from an attorney that I was-- knew will.

Q. What-- the date on the document is the date-- reflects the date that the signing was made; is that correct?

A. The date on the document what?

Q. In other words, the place where the date is, says that the signature was put down on February 1980, in other words, it is to show the world, for whatever purpose, that the document was signed, the deal was struck, on the date down there?

A. Well, that's the way it was supposed to be, yes.

Q. In other words, someone looking at that document, because of that date, would think that you made the deal and signed the papers on February 25th, 1980; is that correct?

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A. That's what they would have to.

Q. It really-- the date you signed it, though, doesn't affect the actual effective date of the transaction, though, does it? What is-- could you read the last term that's typed into the middle section of the royalty deed?

A. I've got a cataract and I just had an implant and I can't read that fine print, but read it for me.

Q. Does it say: This conveyance is to be effective from the first day of production?

A. Yes.

Q. Is that a fairly standard--

A. That's standard.

Q. Could you explain to the grand jury what that means?

A. Well, if the instrument was dated one day but the well had been in production a month or six months or what have you, it would include all them runs from the first day of production.

Q. So, in other words, the-- legally, the rights flowing from that deed conveyance, that royalty conveyance, isn't the date of the signature, it's the first day of production when the sort of-- the item being conveyed comes into

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being; is that correct?

A. Yeah, that's correct.

Q. So the only purpose in putting February 25th, 1980 is so that somebody somewhere thinks that that is when you made the deal? It doesn't affect anybody's rights in terms of the royalties?

A. No, it doesn't.

Q. So what did you think when you saw that the document wasn-- when Carroll Ingram wanted the document to be back dated?

A. Well, I assumed that he was-- knew what he's doing. I didn't see nothing wrong with it.

Q. Well, obviously it's not true. I mean you were signing a document that wasn't true by saying you were signing it on a date that had long since passed; is that correct?

A. Yes.

Q. And just because Carroll Ingram told you to do it, you did it without question?

A. Yes.

Q. Did you have any idea at all why Carroll Ingram told you to do it?

A. Well, I assumed that he thought that-- well, at the time it didn't-- I wasn't concerned with it. I didn't-- it didn't dawn on me that we

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was doing something that was-- we was doing something wrong. I was totally dependent on him.

Q. Did you and Carroll Ingram ever discuss the fact that it would look bad that you were conveying these royalties to Judge Nixon at the time Drew's case was pending?

A. No.

Q. And you therefore decided to back date it to a time prior to the drug offense?

A. I did not discuss with Carroll Ingram the back dating of this instrument, period. Carroll told somebody in my office, and I assume "Skip" Jarvis.

Q. Would you have been present when he was told that?

A. No. No, I wasn't. I wouldn't have been present.

Q. How do you know you weren't present?

A. Well, I don't remember being present when that happened.

Q. What is it that you remember when you say you remember Carroll Ingram told somebody to back date it?

A. This instrument was in that box and somebody in the office said that Carroll Ingram

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said back date-- back date the instrument.

Q. Why are you so sure it wasn't as a result of a conversation between you and Carroll Ingram?

A. Well, I-- he just-- I'm not a thousand percent sure but I'm just-- I just know I would have remembered it if he'd of said something to me.

Q. Now, try to help us, Mr. Fairchild. How many years have you been in the oil business?

A. Oh, since I bought my first royalty in the thirties.

Q. So approximately 50 years?

A. Yeah, yeah.

Q. About how many of those deeds have you seen in those 50 years?

A. Just numerous, just a bunch.

Q. A thousand?

A. Thousands, yes.

Q. Can you tell us one reason why there would have been a phony date put on the signature line of that document?

A. Because Carroll Ingram said to.

Q. Why would Carroll Ingram have said to do it?

A. Well, to make the record look better.

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Q. Why does that make the record look better?

A. Well, it would -- well, because-- it was because it was back there, back when it was, and it-- and it looked like the deal was struck back then.

Q. Why would he have wanted it to look like the deal was struck in February 1980 rather than early 1981? Why does that make it look better?

A. Well, I know what your're getting at but I can't-- I can't think of the proper words to answer it.

Q. Do your best.

A. Huh?

Q. Do your best.

A. Well, my son was involved with that drug deal and-- involved in that drug deal and I would assume that that is the reason that he asked that it be back dated.

Q. Why do you assume that?

A. Well, I just assumed that.

Q. All right.

A. He had to have a reason to ask that it be back dated.

Q. Surely you were aware of Drew's drug deal; is that correct?

A. Yes.

Q. And you said yesterday that in early 1981 that it was your understanding that the case might be brought in federal court; is that correct? Was that your testimony yesterday?

A. Yes, I-- yes, I believe that's correct.

Q. Did you have any awareness at the time you were conducting this transaction, signing those papers, deciding what property to give to Judge Nixon, did you have any awareness of the possibility that maybe he'd end up with Drew's case?

A. It didn't-- it didn't actually cross my mind.

Q. Even though this was one of three federal judges in the district and you thought Drew's case was in federal court, it didn't cross your mind; is that your testimony?

A. I didn't do this because-- I done it because Carroll asked me to do it. I didn't do it as-- as-- well, because the case might have been before a federal judge.

Q. Well, is it your testimony that-- did that fact, that Judge Nixon might be in a position to help Drew's case, have any effect or influence in your setting the terms and carrying out that transaction? Remember you're under oath, Mr. Fairchild.

A. Well, repeat the question.

Q. Did the fact that Judge Nixon, in your mind, might have had some ability to help in Drew's drug case have any effect on your setting the terms of that transaction and carrying out that transaction?

A. Well, him being a human being, yes, I could-- I would have certainly-- I would have certainly-- would have hated to say no, I'm not going to put him in no deal, then it come to pass that Judge Nixon would have had-- got Drew's case. I would have-- I wouldn't have wanted that to happen.

Q. So at the time that the deal was struck between you and Carroll Ingram, that was one of the factors in your mind?

A. Well, not-- not really. I wasn't too much concerned. We have-- we have a suit from time to time filed. We didn't have no-- nothing pending in federal court at that time, but I'm trying to make it plain to the jurors here that it's-- if he'd of asked me to put Joe Blow in there, I-- no, I wouldn't have done it.

Q. You wouldn't have done it?

A. No.

Q. Is it fair to say that despite the trouble that you have had through the years with Drew that you did not want to see your son to go prison?

A. No, I wouldn't want to see him go to prison.

Q. And that you thought-- did you think that by entering into this transaction with Judge Nixon you could help possibly avoid Drew going to prison?

A. I didn't enter into this because I thought it would keep my son from going to prison. No, I didn't do that.

Q. Did you think it might help?

A. Well, him being a human being, I would-- I would-- I would have to assume that.

Q. Mr. Fairchild, you and Carroll Ingram at various times had discussed Drew's criminal problems; is that correct?

A. We had discussed it some, not to a

great extent.

Q. Did Carroll Ingram ever discuss Drew's criminal problem in the context of this royalty transaction?

A. He did not.

Q. But Carroll Ingram was certainly aware of Drew's problem, just as you were, at the time that deal was struck; is that correct?

A. Yes.

Q. So is it your testimony that the reason that you believe Carroll Ingram said to back date the deeds was to make it look like that the deal was struck prior to the drug bust?

A. Well, I would assume that that's what he had in mind but I didn't question it. He's an attorney and I just didn't questio it. I went along with it.

Q. Would you go along with anything Carroll Ingram asked you to do that was arguably improper just because he asked you to go along with it?

A. Not anymore.

Q. Well, would you have done it then?

A. Well, I have done some things since then that he asked me to that I'm sorry of.

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Q. Want to tell us what that is?

A. Put all that money in Evelyn Gandy's campaign.

Q. Did you ever say to anybody that-- or express to anybody the sentiments that because of all of the money you gave to Evelyn Gandy that you would be in good shape if she became the governor?

A. Oh, I knew I would. I knew that I would be in good shape like I was with Waller when he got elected.

Q. And certainly in soliciting these hundreds of thousands of dollars from you Carroll Ingram either explicitly or implicitly let you know that it would be in your interest if you parted with a lot of your money?

A. Did Carroll let me know that?

Q. Is that something that was absolutely obvious in him soliciting the money from you?

A. Well, he solicited money to me-- from me and the other Fairchilds to help Carroll Ingram, not us. In fact, my brother, halfway through the campaign, wrote Evelyn Gandy a letter and threatened to pull out and not give no more money. He saw what Carroll was doing to me and him, and-- but I talked him into going on through with it.

Q. What was Carroll doing to you and him?

A. Well, he was just promoting us and we's going to win this thing and we're going to have good government, we can get some good laws passed. And I certainly had some laws that I wanted passed, and I been able to get'em passed under the present administration. And--

Q. What was it that made you and your brother upset about Carroll Ingram that you were going to stop giving money to Evelyn Gandy?

A. Well, it just got obvious that the way that we-- that we didn't think the finances of the campaign was handled properly, that Bill Allain was out doing us on the radio and TV and yet he was spending less money than we was spending. And that's what Rodney, my brother, brought to my attention. It just didn't look like the money was being spent properly. And it just-- we totaled up the radio time and TV, and we just don't know until today where all that money went.

Q. Did you ever discuss Drew's case with Judge Nixon?

A. No, I don't recall ever discussing it with Judge Nixon.

Q. What did you discuss with Judge Nixon the various times he was in your office?

A. Oh, well, he wouldn't stay long. He'd just come out there and one time, after he got this thing, he come out there and said he-- it sure did come in handy, he'd had a lot of expenses, the kids-- had a lot of kids in college I think.

Q. Now, I believe you just testified that it was you who basically decided on your own what properties would be conveyed to Judge Nixon; is that correct?

A. Yes. I was the one picked them out.

Q. And it was you that decided to give him a piece of the Getty well, a piece of the Exxon well and a piece of the Union well; is that correct?

A. The L.G. Ross.

Q. Which is what oil company?

A. Well, Union Oil.

Q. I think that-- let's try to refer to it by the oil companies simply because I think it makes it less confusing for us.

Was it you that decided how much acreage would be conveyed?

A. Yes.

Q. Was there-- do you have any

recollection of having the deeds that were originally drafted changed to reflect more acreage?

A. Well, that could have happened but, no, I don't have any recollection.

Q. If there was testimony that "Skip" Jarvis originally, at your instructions, drafted the deeds to show one acre on each well and he subsequently was told to make them three or five, depending on the well, and that you gave him that instruction--

A. Well, that

Q. -- could that be possible?

A. That's possible, sure.

Q. What would have caused you to change your mind?

A. Well, it'd just been a judgment. Just been a judgment.

Q. Would Carroll Ingram have had anything to do with it?

A. No, no, I don't think so.

Q. Do you have any recollection of that?

A. No, I really don't. It's-- if-- it's very well possible that it was.

Q. What point in time did you decide exactly what you would convey to Judge Nixon?

There's a big difference between three acres and one acre, right?

A. Yes.

Q. Just to belabor the obvious, that would make the conveyance three times more valuable than one acre? Right?

A. Well, but in the Wilkey well it was what we conveyed was just 1/56th of what we had in the well. Well, all three of'em was just a small part of what we had in it.

Q. But the deeds themselves, just to get that clear, can speak in terms of numbers of acres?

A. Yes.

Q. Is that correct?

A. Yes, that's right.

Q. And one of the wells-- the Covington County wells were five acres. One of the wells, the Marion County wells, were three acres and the Mobile County wells were three acres; is that correct?

A. Yes

Q. So if these things had been raised from one acre to three, three, and five, it substantially increased the value of these conveyances; is that correct?

A. Yes.

Q. Think back. At what point did you decide in your mind how much, how large an interest you would convey?

A. Well, I don't remember when that happened but I was-- and if I told'em to go from one acre to what the deeds here show, I was-- and the reason I put'im in three different oil wells, I wanted to be sure that there wouldn't be no money lost in it. And, as it turned out, the L. D. Ross well probably won't ever pay out but the other two turned out real good.

Q. Indeed, you knew that the other two would be good, didn't you? Because they were already drilled and capped and it was just a matter of turning a valve and the oil would start flowing?

A. Well, all of them were. All of them were drilled.

Q. In other words, this wasn't a wildcat venture that he was buying into where the well hadn't even been drilled yet; is that correct?

A. Well, that's correct.

Q. Is it fair to characterize the status of the wells in early 1981 as having been drilled, it was there-- it was all ready for the oil to start flowing or the gas to start flowing and it was there was no question that it would flow, that it was simply a matter of turning the spigot? Is that fair?

A. You drill a well, you test it and you'll get some idea when you test it. Then-- then you set up your tank batteries and your gas lines to deliver the gas, and then you turn the well on. And not until that well's been on, and I'm not an engineer, until that well's-- it has to flow a good while before you know what-- how good the well is. And, frankly, had there-- if I had of known the Ross well wasn't going to be no better than that, I would have left it out. I wouldn't have put him in that well.

Q. Because it was your understanding that these-- your hope and understanding that these were pretty much sure things?

A. What?

Q. It was your hope and understanding that these would be almost riskless as an investment?

A. Oh, it was my hope that they'd turn out good, yes.

Q. Now, it's your testimony that you set, on your own, the terms of what would be conveyed to Judge Nixon; is that correct?

A. Yes.

Q. Who set the terms of what and when and how he would pay you for this?

A. I don't remember being in on that discussion.

Q. Who would have been in on that discussion?

A. Well, I could have been in on it but I just don't remember it.

Q. Is it not true that the time you conveyed these interests to Walter Nixon there was absolutely no provision for him to pay you anything? Isn't that what happened?

A. It could have happened, but like I say, I was depending on "Skip" Jarvis. He was-- he was-- he was head of the oil division and he handled them things and I was depending on him to handle it.

Q. Well, how could he have? We're talking now about what your understanding was as to how much, if anything, was going to be paid for these royalty interests. What does that have to do with "Skip" Jarvis? ?

A. Well, obviously, Carroll got some figures somewhere but I just don't remember. I just don't remember how that-- and I could of been in on the discussion but I just don't remember.

Q. Was it your understanding at the time that these deeds were conveyed to Judge Nixon that there was no obligation on his part to pay you anything?

A. I didn't know it at that time, no.

Q. Is it true that you pretty much viewed these conveyances as a gift to Judge Nixon?

A. I don't consider them as a gift, no.

Q. What was your understanding as to what he would pay for them?

A. Well, he would pay a reasonable-- reasonable amount.

Q. Who would decide what is a reasonable amount?

A. Well, usually I would but I-- I just don't remember how-- how the amount come about.

Q. Is it fair to say that when you generally conducted business in oil that you're a pretty shrewed bargainer and that you do your best to maximize your position?

A. Well, some deals it's that way, but

some deals-- I sold some proprety in Achutica (phonetic) Creek Field, a million a hundred thousand dollars, and three years later a man sold one half of it for a million one hundred thousand dollars so I didn't do so good on that. And something like this, I wouldn't-- I wouldn't get down and drive a hard bargain on it. And my dealing with Governor Waller, I didn't drive a hard bargain on that.

Q. That was a campaign contribution, wasn't it?

A. No, no, it was an oil deal.

Q. But the purpose of it was much like the purpose of the campaign contribution?

A. Well, but this is after he's already governor, yeah. Well, you can put'em in the same category.

Q. That is kind of the way you viewed this transaction with Judge Nixon; is that correct?

A. I guess it would be fair to say that, but I didn't intend it a bribe or in any-- in any way.

Q. Well, what good does it do you to gain his favor? His only power is as a judge, right?

A. Yeah, but a judge or governor or

senator, you get into trouble, they'll call your friends and help you out. That's done all the time.

Q. You were aware that Judge Nixon was good friends with Bud Holmes?

A. Yeah, yeah.

Q. You were aware Judge Nixon was good friends with George Phillips?

A. Well, no, I didn't know that.

Q. You didn't know that?

A. No, I didn't know.

Q. But you thought that even if the case didn't go to him, that he could probably help behind the scenes?

A. Who? George?

Q. No. Judge Nixon.

A. Well, it just stands that friends is-- helps friends out.

Q. And you figured by giving him a good deal you'd be a friend?

A. Well, like I say, what you go'na do when somebody asks you to put somebody in there, your son's got something in court? Are you going to tell him no and then let him come up and be the judge that tries him? And I'm trying to make it plain as I can. I don't consider it a bribe, I-- it's I done it because I didn't want to do it.

Q. Why did you do it then?

A. Because I didn't want to say no.

Q. Was it your understanding that Carroll Ingram was soliciting this because he knew you would have those fears and the time was right because of that?

A. Repeat that question.

Q. Was it your understanding, whether spoken or unspoken, when Carroll Ingram came to you and said let's put Judge Nixon in a deal, that he knew you were very vulnerable because of Drew's situation?

A. Yeah. Yeah, that's a fair statement.

Q. And that at the time he first approached you about this, you, at least, were worried about Drew's situation?

A. You know the jury won't believe that at the time that he said it, that he asked me that day, Drew did not cross my mind.

Q. When did the connection-- when was the connection made in your mind?

A. I don't remember, after that at some time. It-- it's a man in my position, it's all time-- you never have enough friends. You never have too many friends and you always have too many enemies.

Q. Is it fair to say one way a man in your position gets and keeps friends is by being generous or not generous with your wealth?

A. Repeat that.

Q. Is it fair to say, following up on what you said, that one way of making and keeping friends, if you so choose, is to be generous with your wealth?

A. That's a good way to have a bunch of friends and that's why I have contributed to charity more than six hundred thousand dollars in the last three years. I can pick up a phone and touch a lot of people.

Q. You didn't view the deal with Judge Nixon as charity, did you?

A. No, no.

Q. That was to make a friend?

A. Well, I done it because Carroll Ingram asked me to do it.

Q. Well, if Carroll Ingram came to you and said let's make a, quote, deal to give some royalty interests for the fellow that cuts your grass out back, he seems like a nice guy, would you have done that?

A. No.

Q. So it isn't only that Carroll Ingram told you to do it, it was because you thought it would be in your interest to have a federal judge on your side at that time; is that correct?

A. Well, I'd say it was I wouldn't have done it for just Joe Blow or somebody. I say again I done it because Carroll Ingram asked me to and I didn't want to be in a position of telling him no and then my son coming up before the judge that could hear it or assign the judge that could hear it.

Q. Let me ask you again. Remember you're under oath. Was there any provision, at the time you conveyed these deeds, for Judge Nixon to pay you anything in return for them?

A. I do not know.

Q. Is it possible that there was no such provision?

A. It is possible.

Q. And that essentially you weren't viewing this as a business transaction, you were viewing this as a way of pleasing Judge Nixon at

Carroll Ingram's request?

A. Well, I would say this's a fair statement.

Q. Among the documents you gave us, turned over to the grand jury yesterday, was-- one's called-- three papers, on the top of each one, says Negotiable Promissory Note (indicating).

Is that correct?

A. Yes.

Q. And are these identical to the copies you gave us?

A. Well, I would think so, yes.

Q. And is it fair to characterize these three documents as three promissory notes from Walter Nixon to Fairchild, W. R. Fairchild Construction Company, one in the amount of three thousand dollars, one in the amount of forty-five hundred dollars, and one in the amount of two thousand dollars? Is that correct?

A. Yes.

Q. And would these represent Judge Nixon's obligations for those royalty deeds?

A. Yes.

Q. Who prepared those notes?

A. I don't know. I think Carroll Ingram.

I would think "Skip" Jarvis would know. I don't remember anything about them being prepared in our office.

Q. Did you have anything to do with setting the terms for those notes?

A. I don't recall. I could have but I don't recall having anything to do with it.

Q. How else could the terms have been set?

A. Well, "Skip" and Carroll Ingram could have got together and "Skip" could have asked me some questions.

Q. Could it be that these notes didn't come into existence until well over a year after the deeds were signed in 1981?

A. I don't know that to be a fact, but I don't know. It could be but-- it could be but I just couldn't say on that now. "Skip" Jarvis was the one handled this, he was the one figured up the interest and everything.

Q. Well, he couldn't have figured up the interest unless the--

A. I mean when the notes was paid off.

Q. We're talking now about the preparation of the note.

A. Well, I don't-- I don't know when they.

was-- when they was made or who made'em.

Q. Is it possible that those notes were prepared only after people began to voice suspicions about your transaction with Judge Nixon?

A. It's possible. It's possible.

Q. And there was a time when those suspicions were voiced; is that correct?

A. I don't recall the suspicions of being voiced, no, I don't.

Q. Although you were a little fearful, were you not, that-- you were reluctant to have people in your office know the details of that transaction; is that fair to say?

A. What now?

Q. You were reluctant to have people in your office--

A. I was reluctant?

Q. Were you reluctant to have people in your office know the details of that transaction at the time those papers were signed?

A. I could have been, but as far as it-- it's not uncommon to, you know, keep your business secret. And but I never-- I never told anybody-- I don't recall ever telling anybody to be quiet about this.

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Q. Might you have asked, for example, that the deeds be prepared without the name of the grantee being present?

A. I don't recall.

Q. So that the person preparing them wouldn't know who the transaction was with?

A. I don't recall that of happening.

Q. Would it be unusual for you to ask them to be prepared in that fashion?

A. Yes.

Q. Would the reason be that you didn't want people to know who the grantee was?

A. Yeah, I have had that before, other than-- I've had that to happen on some deeds but-- but on this, I just don't remember telling anybody to be quiet.

Q. Did you ever tell anybody to leave the name of the grantee blank when the deed was prepared?

A. I don't-- I don't remember telling anybody that.

Q. Assuming that there was evidence that you did that, why would you have done it?

A. Well, the thing would of had to-- it would of-- it would of had to of happened for me to have a reason. But I just don't remember it being so secretive out there. I found out this morning, in talking to two of the employees, every time that Walter Nixon's name was mentioned, that "Skip" would do this (indicating). Every time, he'd do that (indicating), and I never heard that until this morning.

Q. When you instructed "Skip" Jarvis to prepare these deeds, did you tell him that Walter L. Nixon was the grantee?

A. Well, yes, yes. He was-- when he prepares the deeds, well, he's given the-- yeah, he would have to have that information to make them out.

Q. Well, he could prepare it and leave out everything but the one line that says who the grantee is, couldn't he?

A. Yes.

Q. And then somebody else could fill that in and then Jarvis would never know who the grantee was at the time he filled it out; is that correct?

A. (No response.)

Q. Or Jarvis or anybody else who witnessed the signature or typed the document?

A. That could be done, yeah.

Q. Did you have those promissory notes-- did you ever discuss preparing the promissory notes with Carroll Ingram?

A. I don't recall discussing the promissory notes.

Q. Did you and Carroll Ingram decide that you better get up some promissory notes after suspicions were expressed regarding this transaction?

A. I don't remember discussing-- I remember him saying that sometime-- and I don't remember the time, saying something about some notes. Up until now I just assumed that it was back when everything transpired.

Q. Whenever that was?

A. Huh?

Q. Whenever that was?

A. Yes.

Q. But you really paid very little attention to the promissory notes because, for your part, you weren't thinking in terms of getting paid for these interests, were you?

A. Oh, I expected to be, get paid, all the time, yes, I did.

Q. How did you know how much you were going to get paid?

A. Well, I figured we'd get a, you know, fair price for it.

Q. What do you mean by a "fair price"?

A. Well, where we'd make a profit on what we sold. But there again I was depending on Carroll Ingram. Carroll Ingram asked me to do this and I's more or less leaving it in his hands.

Q. And is it fair to say that you would put this in the same category as when Carroll Ingram would ask you to give to political candidates?

A. Well, yes, I would say that that's a fair statement.

Q. Carroll Ingram has done work for you in commercial transactions with people that you really didn't know and that were just other businessmen; is that correct?

A. Yes.

Q. And this case wasn't handled-- this transaction wasn't handled in that fashion? It was handled more like when he says let's give some money to Evelyn Gandy's campaign or let's give some money to Waller's campaign or let's give some money to some other campaign; is that correct?

A. Well, it would be in the same general category I'd say.

Q. Getting back to Drew's case, I believe you testified that in early 1981 or late 1980 you became aware that Drew had negotiated some sort of a deal with the U. S. Attorney's office; is that correct?

A. Yes, whenever it was, yeah.

Q. Now, at some point thereafter did you become aware that Drew got indicted by Bud Holmes?

A. Yes'

Q. Did you know prior to Drew getting indicted that that was coming?

A. No, complete surprise.

Q. Is it fair-- is it your recollection that he was indicted in August 1981?

A. Yes.

Q. Did you have any contact with Bud Holmes subsequent to that indictment?

A. Well, he called and told me he was indicted.

Q. Well, was that before or after?

A. Right after he was indicted.

Q. Could you, to the best of your

recollection, explain what was said during that phone call?

A. He said, "Drew just got indicted for the conspiracy," says, "Let him come on down and I'll release him on his own recognizance, but you need to get your attorney, Bill Porter or Carroll Ingram, or who," or something, he mubled something after that.

Q. What did you think Bud Holmes was trying to do when you received that phone call?

A. Well, what did I think he was--

Q. Did you take that as just a friendly phone call?

A. Well, yes. Yes, I wouldn't have-- I wasn't -- it-- it didn't dawn on me that night but later on, I-- it dawned on me that I don't think he would have been indicted if he hadn't been my son.

Q. At this point in time you're certainly aware of the fact that your son did in fact confess to criminal conduct?

A. What now?

Q. At this point in time you're aware of the fact that your son was involved in, and did confess to, being involved in the drug conspiracy?

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A. Well, whatever he-- the deal he made with George Phillips, I knew about that.

Q. Why did-- were you upset when he was indicted by Bud Holmes?

A. Yes, I was. I understand it was for the same offense.

Q. And was one of the reasons you were upset was because you thought this thing had been resolved?

A. Yes.

Q. Did that have anything to do with the fact that you had followed Carroll Ingram's instructions and turned over the royalty interests to Judge Nixon?

A. I don't-- I don't think so.

Q. After that initial discussion with Bud Holmes, did in fact your son retain either Carroll Ingram or Bill Porter?

A. He retained Bill Porter.

Q. And what is your understanding as to what happened next?

A. My understanding is that for ten thousand dollars that he-- that he never would hear no more about it.

Q. Where did you gain that understanding?

A. From my son, Drew.

Q. What did Drew tell you?

A. Well, he told me words to that effect.

Q. Well, as clear as you can, explain to the grand jury what was the effect. What was the substance of what Drew told you regarding the ten thousand dollars?

A. Well, the twenty-five hundred was paid at-- at one time, and for seventy-five hundred more, that it wouldn't-- that it wouldn't-- wouldn't nothing be done.

Q. Now, the deal wasn't that, "I will represent you for X amount of money," it was "For X amount of money Drew will not have to go to prison"; is that correct?

A. (No response)

Q. This ten thousand dollars wasn't said in terms of "This is what my time will cost you," it was in terms of "This is how you can get off"?

A. Well, of course I assumed, and I had heard before, that that was ther- that that was what some lawyers charged, was ten thousand dollars on a case like this.

Q. But a lawyer, to your understanding, can't make a guarantee, a defense lawyer can't make a guarantee, to his client that he will get the person off, can he?

A. No, he can't.

Q. And what Porter said wasn't "My representation will cost you ten thousand dollars," the way you understand it is he said "If you pay the ten thousand dollars, Drew will be taken care of"?

A. Well, that would be a fair statement,, for ten thousand dollars.

Q. In other words, you didn't think, when Drew mentioned-- when Drew mentioned the ten thousand dollars to you, was it your understanding that this money was going to help influence people to make the right decision on Drew's case, government people?

A. Well, I knew him and Bill Porter and Bud Holmes was-- was good friends and had some business transactions together.

Q. And Bud Holmes was the prosecutor and Bill Porter was the defense attorney; is that correct?

A. Yes.

Q. _ Have you had any other contact with Bud Holmes in reference to Drew's case?

A. One time.

Q. Can you explain that to the grand jury?

A. To get a good picture of it I'm going to have to back up a day before.

Q. Feel free.

A. Drew called me the day before Bud went out of office and he said, "Bud Holmes has just called me and said he wanted to carry out the agreement that he had with Bill Porter." Drew was talking to me, and Drew said--

Q. Let me stop you before for just a minute to make it clear for the jury. Where was Bill Porter at that point? I believe we're talking about late 1983?

A. Yes.

Q. Where was Bill Porter at the point in time when Drew called you?

A. He was lost in a plane crash in-- down off the coast.

Q. Do you know just-- if you can briefly tell the grand jury about what you know about that plane crash.

A. Well, Bud Holmes and Bill Porter and the pilot and another fellow was down there fishing and I understand that the plane crashed about a mile off the island and the rest of them swum to shore and hadn't never heard of Bill Porter.

Q. So Bill Porter at this time is presumed dead; is that correct?

A. Yes.

Q. Okay. Now, I'm sorry for interrupting you. You were talking about the day before your contact with Bud Holmes?

A. And Drew says, "What agreement?" And he says, "Well, three unsupervised probation, five thousand dollars," and he said, "Well, I never heard of no deal like that." And so I-- I called up Carroll Ingram and told him what had happened and threatened to go to Marvin Rubin and tell the whole story.

Q. Who is Marvin Rubin?

A. He is manager of W.D.A.M.

Q. What was the whole story that you were referring to?

A. Well, Drew's partner out at the airport-- the night the plane come in, Drew was at home in bed, and his partner's never been indicted.

Q. Why is that something that would concern the media?

A. Well, he would expose what was-- he would expose, as they always do, when he can get some concrete facts.

Q. What is it that he would be exposing?

A. That my son was indicted but somebody else, that was in partners with him at the airport, wasn't.

Q. Why is it that you think that took place?

A. Huh?

Q. Why do you think Bud Holmes made that decision?

A. Well, I'll stick to my other statement. I think my son was indicted because his daddy had some money.

Q. Is it your testimony you think Bud Holmes was, one way or another, trying to get something from you by manipulating Drew's case?

A. That's a fair statement.

Q. When did you-- after that conversation with Drew, which would have been in December 1983?

A. Yes.

Q. When did you see Bud Holmes next?

A. This thing had just drawed off and got on the news and it was over and over, and I called

Wallace Gunn and--

Q. Just for the grand jury, who is Wallace Gunn?

A. He's my attorney. And asked him did he know of a federal law where they could take it out of state court and put it into a federal law. And he said, well, he wasn't a criminal lawyer but Karl Kepper was. And so I told Drew to call him that night and get him to go down and file something in federal court to take it out of the state court.

And the next morning I walked in the office and they said, "Bud Holmes called you," and I said, "Well, if he calls again, tell him I'm not in." Said, "Well, he wanted to come out to see you," and I said, "Well, you can't tell him I'm not here," so about 20 minutes later he walked in the office.

Q. Was he alone?

A. Huh?

Q. Was he alone?

A. Judge Dickey McKinzie was with him.

Q. What time of day was this?

A. It was between eight and-- a little after eight o'clock.

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Q. Pardon?

A. A little after eight o'clock in the morning.

Q. Could it have been even earlier than that?

A. Yes, it could have been. It could be.

Q. Who is Judge Dickey McKinzie?

A. He's a Forrest County circuit judge.

Q. Was it clear to you that he would be the judge handling Drew's case?

A. Oh, yeah. Yeah.

Q. There's only one Forrest County circuit judge; is that correct?

A. Yeah, yeah.

Q. What was your reaction when you saw Bud Holmes, the DA, and Dickey McKinzie, the judge, coming to see you?

A. Well-- well, I was surprised. I didn't know-- I just didn't know what to-- what they were out there for.

Q. What transpired at this meeting?

A. They come on back to the office and sat down and Bud says, "Wiley, get ahold of Drew." He says, "Don't get the damned news media into this thing," says, "They screw everything up, never get nothing right," says, "Ain't nobody after-- ain't nobody after him," says, "You won't--. just let it slide. Just let it slide."

Well, when I get excited, I can't remember, you know.

Q. You can't what?

A. Can't remember when something just shor'nuf excites me. If somebody calls me on the phone and I'm talking to somebody and then I get another something that upsets me, I can't remember this telephone call.

So I sat there and I had my brother, Rodney, in there and somebody else, so I just set there dumbfounded trying to remember what he had said.

Q. Was Rodney in the room when Bud Holmes and Dickey McKinzie was there?

A. Yes.

Q. He was present during your meeting with Dickey McKinzie and Bud Holmes?

A. Yes. And I sat there dumbfounded and I knew he had said something, but finally I said "Well, now, Bud, what do you recommend? He says, "Just be quiet," said, "Nobody-- you'll never hear nothing about this thing, just let it slide." And

I said, "Well, that's what we want to do."

And so he said something-- he said something to the remarks that "Drew done pleaded guilty but," said, "ain't nobody after him," said, "Dickey can give him twenty years and ain't nothing nobody could do about it."

And so that's-- and he stayed around there, rooted around for words to carry on the conversation a little while, and they got up and left.

Q. What was your understanding as to why the judge was present at this meeting? This was in your office, right?

A. Well, he-- Bud said he had a good relationship with the judge.

Q. Was it made clear to you at this meeting that if you kept your mouth shut and let the thing slide, that Bud would make sure that Drew wouldn't go to prison?

A. I was led to believe that.

Q. And did-- at least from your perspective, did it seem like Judge McKinzie was at this meeting so that you would know that Holmes had that power?

A. Well, the Judge McKinzie had

reactivated this on that file and he's very political minded, Judge McKinzie is, and one thing I thought he was out there to assure me that he wasn't out after him, wasn't taking out after my son.

Q. Was Dickey McKenzie having to run in an election to become judge?

A. Huh?

Q. Is there an election?

A. No, no. I'm just saying-- no, no, he'd just been elected, hadn't been-- taken office very long. But he's very political minded and he's-- he don't want nobody against him who could, you know--

Q. In case he needed a contribution for his next campaign?

A. I-- well, I really taken it that he was out there so I would not get somebody else to run against him.

Q. Did Dickey McKenzie say anything in the course of this meeting?

A. Huh?

Q. Did Dickey McKinzie say anything in the course of this meeting with Bud Holmes?

A. He probably did but, for the life of me, I can't remember a word he said.

Q. Did there come a time after this meeting that you expressed your suspicions to a man named Mr. Boltar?

A. Mister who?

Q. Boltar? Bolcar?

A. John Baltor, yeah.

Q. Spell his name for the reporter.

A. B-a-l-t-o-r.

Q. And what did you ask him to do?

A. Well, the very next time the court come up, there Drew's case come up again, and they called Karl Kepper to come over there and sign something to put it off. And I said--

Q. Karl Kepper is a criminal defense lawyer in Hattiesburg; is that correct?

A. Yes.

Q. And he's your lawyer at this time?

A. Yes.

Q. With this grand jury; is that correct?

A. Yes. So when-- I'd been assured time and again there wouldn't be nothing done, see. And so I just says, "Well, the hell with it. I want to get it over with." It drug out here for a year and I told John Baltor to go to George

Phillips.

Q. George Phillips being the United States Attorney?

A. What?

Q. George Phillips is the United States Attorney?

A. Yeah.

Q. All right.

A. And see could he investigate and see why that they were picking on Drew and they wasn't doing nothing to his partner.

Q. And it's your understanding that as a result of Mr. Baltor going to the United States Attorney, that the FBI eventually came and interviewed you; is that correct?

A. Yeah.

Q. Did your-- is it your testimony that you felt-- what you felt was that what was going on that was wrong was that Bud Holmes was manipulating or somehow mishandling Drew's case for improper motives?

A. I would like to answer that question this way. One Monday morning Bob Royals come there to my office.

Q. Who's Bob Royals?

A. He's Drew's partner at the airport. He says, "Me and Bill Porter went over to Maxwell Air Force Base to visit Joe Crown."

Q. Joe who?

A. Crown.

Q. Spell that please.

A. C-r-o-w-n. That's who was serving time over there that they-- Bill Porter had had some dealings with. And he says, "On the way back," says, "Bill Porter said that if Drew will get up off his money, he can get out of this." Bob says, "Well, Drew don't have no money." He said, "Well, his ole man's got some money," this is Bob Royals telling me, "...his ole man's got some money." Bob Royals says, "Yes, but that's his money, it's not Drew's." He said, "Well, if he knew his son's going to get his tail in a crack," --that wasn't his exact words-- he said, "he'd get up off of it."

I said, "Bob, I've got the message, loud and clear, but the answer is not no, it's hell no."

Q. Are you able to date your conversations with Bob Royals?

A. Do I remember the date?

Q. Well, as best you can, was it before or after Bud Holmes came to see you with Dickey McKenzie?

A. Oh, it was before.

Q. This was during the period after Drew was indicted and before Bud Holmes left office?

A. Yes.

Q. That was the period between August 1981 and December 1983?

A. Yes.

Q. And Drew's case essentially dragged out through that entire period with no resolution; is that correct?

A. Yes.

Q. Is it fair to say that during that entire time you felt like they were waiting for you to pay some money in order to get the case moved along?

A. Yeah, I felt like they was dragging it out until I decided to come across and pay off.

Q. What role, if any, did Carrol Ingram play in the handling of Drew's case and your contacts with Bud Holmes?

A. Well, when he and Bud Holmes told me to get Bill Porter or Carroll Ingram, I told Drew to talk to Carroll. And he talked to Carroll, said "Well, it's the best that you get Bill Porter and just let me work behind the scene."

Q. Who said that?

A. Carroll Ingram told my son, Drew, that.

Q. This would have been before Drew retained Bill Porter to handle the state indictment; is that correct?

A. Yeah. Well, this was-- this is the next day. I think this was the next day after he was indicted.

Q. What, if anything, did Carroll Ingram have to do with the case from there on in?

A. Well, when I had Drew to-- I had Drew to call Carroll about-- and asking him about this federal law where you could get that-- get it back in the-- get it in the federal court, and Carroll said, "Oh, I don't know about that." He said, "It'll take a lot of research and it's going to cost you a lot of money."

Now that was the day before-- that was the day before Bud come out to the office. And that's when I told Carroll Ingram that I was capable of going to Marvin Rubin and exposing the whole damn thing.

Q. What did Carroll Ingram say when you told him that?

A. Oh, he-- I don't remember. Of course, I-- course, I was real mad and-- but then, when it come up-- when Bud said it wouldn't come up no more-- well, I knew good when Carroll said that it would cost a lot of money. I taken that as a hint for some, for a lot of money. And that's when I told him to get Karl Kepper and I told Drew I didn't mind spending legitimate money for attorney's fee, but I just wasn't going to be blackmailed.

Q. Did Carroll Ingram do or say anything else that made you think he might have been part of whatever it was that Bud Holmes was doing?

A. Huh?

Q. Did Carroll Ingram do or say anything else that made you believe he was part of whatever it was Bud Holmes was doing with Drew's case and you?

A. I don't recall anything else but it could-- it could have been something else but I don't recall.

BY MR. WEINGARTEN:

Q. Mr. Fairchild, I have just a few

questions, okay?

A. Okay.

Q. My name is Reid Weingarten. We haven't formally met before.

Mr. Fairchild, did you ever give a campaign contribution to Judge McKinzie?

A. Yeah. Not directly. Not directly.

Q. How indirectly?

A. Oh, I got somebody else to give it to him. Carroll Ingram and Judge Weldy were real close.

Q. Is Judge Weldy Judge McKenzie's predecessor?

A. Well, they were-- they were-- they were running against each other, see.

Q. I see.

A. And I gave them both-- I gave Judge Weldy a thousand dollars and I gave Dickey McKenzie a thousand dollars.

Q. Did you give either candidate any more money indirectly?

A. No, I don't recall.

Q. All right. Judge Weldy was the judge prior to Judge McKinzie taking office, wasn't he?

A. Yes.

Q. Now, when he first ran for office, did you give Judge Weldy money?

A. I'm sure I did but I just don't remember how much. But I'm almost positive I did.

Q. Could it have been thirty thousand dollars?

A. No. No, sir, could not have been.

Q. Judge Weldy was the judge in office when your son was indicted, was he not?

A. Yes.

Q. And he would have been the judge who would have sentenced Drew had the case ever gotten that far?

A. Yes.

Q. All right. And the judge who followed Judge Weldy was Judge McKenzie?

A. Yes.

Q. And you also contributed money to Judge McKenzie as you have just stated?

A. Yes.

Q. Did you ever contribute money to Bud Holmes in his campaign?

A. Yes, I always do, you know, the attorney.

Q. How much did you contribute to Bud when he can?

A. I just don't remember, but I assume a thousand dollars.

Q. Did anyone else in your office contribute to Bud Holmes' campaign?

A. Not as I know of, no.

Q. What about to the present DA, Glen White? Did you contribute to his campaign?

A. Well, there again, I don't remember. But I don't know White. I wouldn't know him if he walked in that door. But if he or anybody else had asked me to give him a thousand dollars, yes, I would have give it to him.

Q. When you say anyone else, someone came off the street and knocked on your door, you wouldn't have given it to--

A. If some lawyer, you know, somebody I know, says, well, I'm trying to get him some money, sure.

Q. Mr. Fairchild, we have some checks from Judge Nixon made out to W. R. Fairchild Construction Company that purport to be repayment for those three notes. Now, do you recall ever having seen these checks?

A. I'm sure that I've saw them.

Q. Okay, let me ask you this, sir. In the normal course of business in your office, if a check comes in for payment to you or to your company, what happens to it? Is it typically deposited in the bank?

A. Yes.

Q. And what is the time lag typically, a day or two?

A. It shouldn't be over that.

Q. I note on the checks from Judge Nixon, starting on March 16, the check is dated March 16th, 1982, and it's not deposited in the Bank of Hattiesburg, which I presume is your bank, until April 21st, 1982, over a month later. Do you have any explanation about the lag in time?

A. Absolutely no explanation, no.

Q. Did you ever receive those checks and call Judge Nixon, say, "You don't have to pay for these leases"?

A. No. No, sir.

Q. Are you certain about that?

A. I'm positive about that.

Q. Did you ever offer Judge Nixon other royalty interests other than the three that have been discussed?

A. What?

Q. Did you ever offer Judge Nixon other royalty interests other than the three that have been under discussion?

A. I might have discussed some, but I don't-- I just don't remember.

Q. Well, could those discussions have occurred on those times when Judge Nixon visited with you?

A. It could of, but there again I just don't remember. I remember talking with him down in Bonnie and Clyde's and seemed like we was discussing some other wells, but I don't remember the details of it.

Q. Did you make any offer to Judge Nixon?

A. There again-- I-- I don't-- I don't remember. I could have.

Q. Well, did Carroll Ingram instruct you to put him in another deal or did you take it upon yourself to discuss these other wells?

A. Now, repeat that.

Q. In those others discussions about royalty interests that you had with Judge Nixon, did you have those discussions because Carroll Ingram told you to or because you did it on your own?

A. Oh, I don't remember Carroll entering into no other thing.

Q. All right. So you did it because you wanted to discuss these other interests with the judge?

A. Well, there was nothing was never finalized or nothing.

Q. Why not?

A. Well, I don't know. It was just discussed.

Q. Did those discussions take place after you already entered in the deal with those three leases or before?

A. It would have been after.

Q. All right. Mr. Fairchild, do you know what happened to those guys who got caught smuggling marijuana into Hattiesburg airport on August 4th, 1982? Do you know what happened to those guys?

A. Do I know what happened to them? Just what I read in the paper.

Q. Well, what did you read?

A. Oh, that-- that, well, one of them jumped bond, the other two got-- got convicted and sentenced.

Q. And went to prison?

A. Yeah.

Q. For five years? Is that correct, sir?

A. Yeah.

Q. And the grand jury has heard evidence that they were sentenced to prison in February 1981. Did you know that?

A. Well, if that was in the newspaper, I read it.

Q. And did they get sentenced in federal court or in state court?

A. Oh, well, I don't-- I don't know.

Q. Don't you know that they got sentenced in federal court, that George Phillips' office handled the case?

A. Well, since you reminded me, yes.

Q. Isn't it true, sir, that when they got sentenced Drew's case was still being handled by the federal government?

A. Yes.

Q. And isn't it true that only after they got sentenced to five years that you transferred those royalty deeds to Judge Nixon?

A. I don't remember the dates. I remember when Carroll Ingram asked me to, I did it.

Q. Well, Mr. Fairchild, is it true that it was only after these men got sentenced to prison in the smuggling case that you got interested in transferring those deeds no Judge Nixon?

A. I got interested in it when Carroll Ingram asked me to.

Q. Well, was Carroll Ingram interested in getting you involved because of the sentence to prison that the three smugglers received?

A. You'll have to ask him.

Q. In your mind, sir, was there a connection in any way between the fact that the smugglers who were bringing the marijuana in had just gotten sentenced to five years in jail and Drew's case was still in the federal courts-- or still in the federal system, excuse me, and the transfer of royalty deeds to Judge Nixon?

A. Well, I will have to go back and say that I done that because Carroll asked me to, that I was-- I didn't keep up with the case all that well.

Q. Did Carroll mention the fact to you that the three defendants had been sent to prison?

A. No, he did not.

Q. Are you sure?

A. No, I don't have no recollection of that. If he did, I think I would remember it.

Q. Okay. Mr. Fairchild, at this time we'd ask you to step outside and let the grand jurors decide if they have questions they want to ask you, and we'll get you in.

(Witness leaves room.)

(Mr. Fairchild back in the room.)

WILEY FAIRCHILD,

continued to testify, as follows:

EXAMINATION (Continuing)

BY MR. RICHTER:

Q. Mr. Fairchild, we have several additional questions to ask you and then I think we will be able to excuse you.

Can you clarify for the grand jury the nature of the employment relationship Carroll Ingram has with you? He doesn't work for your construction company; is that correct?

A. The what? What's the question?

Q. Is Carroll Ingram an employee of one of your companies?

A. No, no.

Q. Is it fair to say that he is a lawyer in private practice that from time to time has been retained to do legal work for you or your companies?

A. Yes.

Q. Have you-- has he done any legal work for you in the last two or three years?

A. Yes. Yes, he's still got a case with

us.

Q. So he's still handling some legal work for you?

A. Yes.

Q. It's fair to say that you pay him by the hour or pay him a retainer but he's not an employee of yours?

A. That's right.

Q. Did you find it unusual-- first of all, does Drew live with you or did Drew live with you in 1981?

A. No. No, no.

Q. Was Drew actually arrested at the time he was indicted?

A. Yes, they come out there to his house and got him.

Q. When you went to Carroll Ingram to try to get the case into federal court, Drew's case to be transferred from state court to federal court, can you just make it clear to the grand jury why it is you wanted that done?

A. Now, I didn't go to Carroll Ingram. I asked Drew to call Carroll and ask him wasn't there a law where you could go in.

Q. Why was it that you told Drew to do

that?

A. Well, when he pleaded guilty to Bud Holmes, he gave'im two minutes to plead guilty or he was going to throw the kitchen-- the kitchen sink at him-- that's not the words but to that effect-- and he had talked with counsel and other counsel and he actually believed if he could of got it in federal court he could have beat'em. See, he didn't think they had enough evidence on him.

Q. Drew thought that?

A. Yes.

Q. Well, hadn't Drew confessed by that point to his involvement in the smuggling?

A. He gave him two minutes to confess or he was going to-- well, the words he's going to--

Q. Well, hadn't Drew already pled guilty in state court and it was simply a matter of him being sentenced?

A. Yes. Yes.

Q. Now, you said that at one time after the drug bust you were so mad at Drew that you didn't care if he went to prison. Obviously sometime thereafter you cared very deeply that he didn't go to prison. What had--

A.   Well, he's my son. I got all-- I got all upset at him at the time and of course I've mellowed since then, sure.

Q.   What was it that made you change your mind?

A.   Well, I think it's just human nature.

Q.   Was it the affection you felt towards your son that made you want to help him?

A.   (Witness nods head.)

Q.   I believe it was your testimony that you did not negotiate or discuss the transaction with Judge Nixon that was entered into, that you and Carroll Ingram did whatever discussion there was; is that correct?

A.   I didn't discuss it with the judge. No, I didn't discuss it-- I don't remember discussing it with the judge. But after Carroll asked me to to put him in a good deal, well, basically Carroll and Jarvis handled it then.

Q.   And, in other words, you never discussed those three wells with Judge Nixon prior to the transaction being effected?

A.   No, I don't recall that and I don't-- if I had, I think I would know it. I think I would remember it.

would you have not talked with him
nsaction you did enter into and yet
o him later about other transactions?
l, this is just a-- there's a-- the
er it, it was at Bonnie and Clyde's
sed this other. Now that I've had
about it, it was at Bonnie and
s was having some kind of get
there.
nnie and Clyde's is kind of a club in

s.
d you met him at a social occasion
began to discuss this casually?
s, yes.
w, when you say that one of the
for example, when you contributed
yn Gandy you figured it would help
s passed?
s.
en you said "good laws," you're
least in part, of laws that are
your business interests; is that

re. And I've got a law passed that--

that the major oil companies has been trying to get 400 percent penalty when somebody didn't participate in drilling a well. And we got the law passed and it's 250 percent penalty, and they've been trying to get this passed for several years. They'd introduce it and we'd have to go up there and kill it, so we just-- I got a full-time lobbiest and he went up there and-- got Wallace Gunn-- and the bill that the majors, it got passed by the House before we realized it. We just-- we wrote it from A to Z.

Q. You're-- obviously a bill like that could have a tremendous financial impact one way or another on your business interest?

A. It's good for the state. It makes it fair to get exploration going. If you go to drill a well and you-- people won't--

Q. I don't think we need to know the details of that, but it's fair to say it would help your business interests if the law was passed in the form you want it passed?

A. Yes. Yes, it certainly would.

Q. Okay. Can you explain to the grand jury why the checks from Judge Nixon-- or why the transaction between you and Judge Nixon was from the construction company to Judge Nixon rather than from the exploration company? Why does-- why were those wells the possession of the construction company as opposed to the exploration company?

A. I'm not sure I understand you, but--

Q. Some of the wells that-- at least two of the wells that you deeded to Judge Nixon I believe were carried and owned by the construction company as opposed to the exploration company?

A. Yes.

Q. And so the checks that Nixon eventually paid to you were paid to the construction company. Why-- the question is, why were those wells owned by the construction company rather than the exploration company?

A. Was all the checks made to the construction company?

Q. I think, if you can look at those, are you able to see the "paid"?

A. Yes, yes.

Q. The record should reflect I'm showing Mr. Fairchild the checks that Judge Nixon gave to the grand jury yesterday.

A. Yes.

A. And your question is why one of them wasn't made to the--

Q. Why were these-- A, why were the wells carried on your books as belonging to the construction company rather than the exploration company and why would these checks have all been paid to the construction company?

A. I didn't know 'til-- I didn't know until, I think it was last week, that that had happened. Now, "Skip" is the one that handled all that, but they could-- they could--

Q. From the deeds, the two of them, two of the deeds were conveyances from Fairchild Construction Company to Walter Nixon, one of them was from Fairchild-Windham Exploration Company to Walter Nixon; is that correct?

A. Yes.

Q. So it was probably a mistake that all of the checks for the Covington County well were also made payable to the construction company?

A. Yes, that was a mistake.

Q. And the reason, it was just a business decision of some sort that some of the wells were initially purchased by the construction company rather than the exploration company?

A. Yes.

Q. Okay. Mr. Fairchild, you are excused. It is possible that after hearing other witnesses the grand jury might-- or might want to ask you some additional questions. But, for the time being, you are excused.

A. For approximately how long?

Q. It could be forever. In other words, it's--

A. My question is how long you wanted me to hang around the office.

Q. You can go home and it will be at least a month before you're called again, if at all. Okay?

A. Okay.

Q. Thank you very much.

(Witness leaves room.)

MR. RICHTER:

I think we're probably all ready for a break. Let's try to keep it short because, as I said, things are running a lot slower and we had anticipated getting a number witnesses that are subpoenaed.

MR. WEINGARTEN:

During the break, if you want to look

EXHIBIT
Respondent's
Exhibit 31

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

SPECIAL GRAND JURY IMPANELED JULY 18, 1984

TESTIMONY OF CARROLL INGRAM

Thursday, July 19, 1984

Hattiesburg, Mississippi

(A QUORUM PRESENT)

APPEARANCES:

ROBERT I. RICHTER
REID WEINGARTEN
Department of Justice
Public Integrity Section
Washington, D.C.
REPRESENTING THE UNITED STATES

FOREMAN: DAVID MITCHELL WARD, SR.

DEPUTY FOREMAN: DOROTHY MAE CLAYTON

REPORTED BY:
DALE N. MILFORD,
Certified Shorthand Reporter,
Registered Professional Reporter,
Court Reporter For Special Grand Jury
Order Dated February 21, 1984

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 31

(Morning recess taken, following which the proceedings continued, a quorum present.)

MR. RICHTER:

Obviously you've reviewed the documents, and are there any questions before we bring in the next witness? We earlier said "Skip" Jarvis was coming in now but we're going to bring in Carroll Ingram.

(Witness enters room.)

THE FOREMAN:

Do you solemnly swear that the testimony you're about to give in the cause pending before this grand jury will be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS:

I do.

MR. RICHTER:

Have a seat.

CARROLL INGRAM,

having been first duly sworn, was examined and testified, as follows:

EXAMINATION

BY MR. RICHTER:

Q. Please state your name.

A. I am Carroll Ingram.

Q. Mr. Ingram, as is done with all witnesses before the grand jury, let me advise you that you-- do you now understand that you have a right not to testify as to anything that might incriminate you?

A. I do.

Q. And that you have a right to be represented by an attorney but that the attorney cannot come into the grand jury with you?

A. Yes, I do.

Q. And, in fact, do you have attorneys or representatives here with you today?

A. Yes.

Q. And you're aware of the fact that anything that you say here can be used against you in a subsequent proceedings?

A. That is my understanding of the law.

Q. Thank you. Mr. Ingram, what is your addrss?

A. 202 Greenwood Place, Hattiesburg, Mississippi.

Q. What is your occupation?

A. I'm a lawyer.

Q. How long-- what kind of lawyer are you?

A. Well, a general practitioner. I practice civil law as a general rule.

Q. Where is your office?

A. 307 West Pine Street, Hattiesburg.

Q. Now, has there been a time in your professional career when you have done something other than simply be a practicing lawyer?

A. Well, in addition to being a practicing lawyer, I served as a state senator for eight years.

Q. Did you hold any positions of responsibility within the state senate?

A. Oh, yes, I was chairman of the Judiciary Committee and on several other committes in the senate.

Q. When did you leave your position as state senator?

A. I did not run for re-election in the last year of my service in the senate which was 1979.

Q. Have you remained at all active in political matters since 1979?

A. Yes, I have been active in political matters since 1979. I have been a part of campaigns for other people, I guess you would say been interested in politics.

Q. Do you know a man named Wiley Fairchild?

A. Oh, I sure do, yes.

Q. How do you know Mr. Fairchild? How did you come to know him?

A. I have known Mr. Fairchild all of my life. In fact, his family and my family are some kin. He would be about a second cousin of mine I believe, so I have known him all my life. And certainly in my professional life, for 17 years as a lawyer, I have known him, have represented Mr. Fairchild and various companies or entities of Mr. Fairchild on various occasions down through the years since I have been practicing law.

Q. And early in your career when you were in law school, did Mr. Fairchild provide any assistance to you?

A. He surely did. Mr. Fairchild, when I was in law school, helped me with a loan to go to school on as a part of my schooling. He surely did.

Q. Is it fair to describe Mr. Fairchild at present as an extremely wealthy man?

A. I certainly would describe him as such. I think he is known in the community to be that.

I do not know of the extent of his-- that wealth, but I would certainly say that you're correct.

Q. Is it fair to say that the professional and political community, in at least south Mississippi, most people are aware that Wiley Fairchild is a wealthy man and often makes political contributions?

A. Yes, indeed. Yes.

Q. Have you ever participated or actually solicited contributions for political candidates from Wiley Fairchild?

A. I would say that I have, yes.

Q. Approximately how many occasions?

A. That would be very difficult for me to answer, to give a number of times, but on several occasions I have asked him to contribute to campaigns.

Q. Did he ever contribute to any of your campaigns?

A. I believe that my first campaign he did, in the senate.

Q. Did he ever contribute to an opponent of yours?

A. Yes, he did.

Q. When was that?

A. That was my second campaign, when I ran for re-election.

Q. Can you explain to the grand jury why, in light of your background with him, he would have contributed to your opponent?

A. Sometimes that relationship with Mr. Fairchild has not always been smooth, has not always been one when he was pleased with me or that-- and so sometimes he would-- I would say he would feel that maybe he didn't want to contribute to my campaign and did not.

Q. Did you, for example--

A. Can I-- let me make one statement.

Q. Sure.

A. You asked me if he contributed to an opponent of mine, and I believe that it would be more accurate to say it was my understanding that he offered to contribute. As it turned out I did not have an opponent. I ran that second race for the senate without an announced opposition, so I don't want to go on record as saying that he contributed but that he-- it was my understanding that he offered to contribute.

Q. Did you approach Mr. Fairchild, on behalf of Evelyn Gandy, for a contribution?

A. I don't think that that would be an a appropriate thing to do. Mr. Fairchild was very much interested in Evelyn Gandy's campaign, has been her friend for a long time, both of them being from Forrest County, has-- and he was interested in that campaign and he had-- he contributed to that campaign. And I don't think it would be a fair assessment to say that I approached him about contributing to that campaign. I think he was interested in that campaign as much as I was. In fact, he and his brother served on the finance council of that campaign and the-- the finance committe of the campaign and-- and of course--

Q. Approximately how much money did Mr. Fairchild and his family and company, or interests under his control, to your knowledge, contribute to Mrs. Gandy's campaign?

A. That I do not know. I would have to go check the records on that to see, but it was considerable.

Q. Could it have--

A. Substantial.

Q. Could it have been as much as two hundred fifty thousand dollars?

A. I don't know that. I would not have thought that much, no, but it was substantial. The records would show that.

Q. Is it fair to say Wiley is a pretty shrewd, aggressive businessman?

A. I would think so, yes. I think he's been very successful.

Q. Is it fair to say that in general, when he makes a political contribution to a political-- to a candidate, that he probably assumes that that candidate might subsequently be more friendly to him once in office?

A. As long as I have known Mr. Fairchild he has been very much interested in politics. I don't think that there's been an election year that has gone by he didn't participate extensively in politics and I think this is a part of what he likes to do and a part of what he does. And I'm sure that he gets gratification from that and would assume that political candidates that he supports would be favorable to him just-- and I think that's an assumption of everyone who is actively supporting political candidats, whether or not it's through money or through working hard in the campaign or anything else.

Q. Is it fair to say that Wiley Fairchild's business interests, far reaching business interests as they are, as you understand them, are often affected by government regulations, state regulations, state laws, and that he would have an interest in how-- who was in government and how the laws are being executed?

A. I think it would be fair to say that he certainly has an interest there. Now, to the extent of your question, that goes beyond what I would know about the effects it has on'em. Mr. Fairchild is very activly in the oil and gas business and, of course, the oil and gas industry is regulated in the state. He is interested in construction, and I guess to some extent there would be some regulation in the construction industry.

Q. Do you know Judge Walter Nixon?

A. Yes, I do.

Q. Let me ask, when was the last time you spoke with Judge Nixon?

A. Last time I spoke with Judge Nixon was about two months ago when he called my-- he had called my office earlier in the day and he called my home, reached me at home that night because I was out of town that day, and that's the last time I have spoke to him-- spoken to him.

Q. When did you first get to know Judge Nixon?

A. Well, I have been practicing law for 17 years and so I have known him as a federal judge all of that time. I would say that I got to know him more as the years went on through the normal contact that you have, the normal times that you would come in contact with a federal judge in your profession, being a lawyer, and then I have also known him as a person who was always interested in game and fish matters.

He is a sports enthusiast as far as hunting and fishing and that sort of thing is concerned. And when I was in the senate he used to talk to me about the game and fish bills or legislation that was there, so I guess that would kind of describe my relationship there.

Q. Would you consider yourself friends with Judge Nixon?

A. I think I would consider myself friends with Judge Nixon, but I think that has to be kind of qualified. I don't consider myself social friends with Judge Nixon or anything of that nature. I think I've been in his home one time in my life. He attended a reception at my home one time and maybe has been in my home on another occasion. I would perhaps see Judge Nixon two or three times a year, I suspect, in the normal course of my profession. So I don't-- I certainly consider that in that-- in those terms and in that realm, I am a friend of his. I guess I would consider he is a friend of mine but on that basis.

Q. Do you know Bud Holmes?

A. Yes, I do.

Q. Describe your relationship with Mr. Homes.

A. Well, Bud Holmes has been-- was practicing law here in Hattiesburg 17 years ago when I came here, so I have known him as a lawyer down through the years. My relationship with him has been one of a professional relationship and to that extent and that extent only.

Bud has been the district attorney here, was the district attorney for four years, so I have known him during that time. I-- again, I'm not in a situation where I'm a social friend of Bud Holmes. He probably has had very little-- he and I have had very little social contact down through the years. We ordinarily have been adversaries if you want to know the truth. We've been adversaries politically, we've been adversaries in the court.

Q. Now, Mr. Ingram, are you aware of a royalty transaction between Wiley Fairchild and Judge Nixon?

A. I am, yes.

Q. What role did you play in that transaction?

A. Well, as I mentioned earlier, down through the years, from time to time, on various matters, I have represented Mr. Fairchild. And I would say that that fact, that I have represented him and his company, from time to time, is a pretty well known fact in the legal community and in the business community here in Hattiesburg. In fact, I think if you will look in Martindale & Hubble, which is a law directory, that it is-- it's published annually-- I think it will show that we represent the Fairchild companies in that listing of clients. And so as Mr. Fairchild's lawyer, then I had knowledge of that transaction.

Q. When did you first-- what was your first contact with that transaction?

A. Well, in the year 1979, in the spring of 1979, when I had an occasion to be with Judge Nixon, and I believe that was in Jackson, Judge Nixon told me that he was interested in making some oil investments, as some of his colleagues on the bench had done, that he wanted to have an opportunity to purchase some oil royalties or oil properties.

Judge Nixon, I'm confident, was aware that I represented Mr. Fairchild. He asked me if I would-- if I saw an occasion to make an investment or a purchase of oil properties from Mr. Fairchild if I would make an inquiry to that effect and to pass that along to him.

Q. Was it your testimony that it was Judge Nixon that first mentioned the possibility of a transaction with Wiley Fairchild?

A. That is the best recollection I have about it. It was-- it was a-- it was not an uncommon conversation. It was something that when Judge Nixon was talking about the possibility of making some oil investments-- and as I recall maybe he had already made some oil investments and-- with some other people.

Q. But you don't know about any other oil investments that he had?

A. No, I surely do not. I have not had anything-- any knowledge of any other, other than that conversation.

Q. After Judge Nixon made this request of you, what did you do?

A. Well, at sometime later, that when I was with Mr. Fairchild on other business, I told him of Judge Nixon's inquiry. And Mr. Fairchild said that when he saw something that he felt was appropriate that he would let Judge Nixon know about it.

Q. And can you put a date on your conversation with Wiley Fairchild?

A. No, I can't put a date on that but it was some reasonable-- reasonably short time after the first conversation I had with Judge Nixon.

Q. Well, based on that, can you give us an approximation of when you think this took place?

A. No, I cannot. Mr. Richter, I can say that it was within a few weeks or maybe a couple of months or something of that nature. It was-- it was a time when it would be convenient or ordinary for me to talk to Mr. Fairchild. I didn't-- I didn't go out to his office or pick up the phone and transmit that message. It was at a time when I would have been at his office on other business or a time when I was-- would be talking with him on the telephone on other business so I didn't have any reason to pin a date to it.

Q. Can you give us the year?

A. It was 1979.

Q. After you made this-- had this initial conversation with Wiley Fairchild, what is your next knowledge of this transaction?

A. Well, the next knowledge that I have of the transaction was at some period of time later Mr. Fairchild told me in a conversation that he had three properties that he would sell to Judge Nixon, three royalty properties that he would sell to Judge Nixon, and he told me where they were and told me the price of those properties.

Q. What did he tell you was the price?

A. About ten thousand dollars. Ninety-five hundred or ten thousand dollars would be the price of them.

Q. And he told you this right at the time--

A. That he identified the properties.

Q. -- he identified the properties?

A. Yes.

Q. Can you put-- in any way to put a date on that discussion?

A. I can put an proximate time on it. I think it would have been sometime in-- in the latter part of 1979 and possibly the first part 1980. It was some few months after the initial conversation that I had.

Q. What happened next to effectuate that transaction that you are aware of?

A. Well, what happened next after that was the-- the message was transmitted to Judge Nixon, to tell him of that investment.

Q. By you?

A. It was by me. I do not know whether Mr. Fairchild transmitted that direct or not, but I did transmit the message, a message.

Q. Then what happened?

A. Well, sometime after that-- and during that time, during the time that Mr. Fairchild had identified those properties, he invited me or asked me to ask Judge Nixon to come by and have a cup of coffee with him at sometime when he was in town, and that occurred.

Q. Can you put an approximate time frame on that?

A. Well, it occurred-- I can't put a time frame on it. It occurred within some short time after that. I don't--

Q. So we'd still be in early 1980?

A. Yes, probably.

Q. And what-- and did this meeting take place?

A. Beg pardon?

Q. Did this meeting take place?

A. It did, yes.

Q. And where did the meeting take place?

A. In Mr. Fairchild's office.

Q. Who was present?

A. Well, Mr. Fairchild was there, I was there, and Judge Nixon was there. And there might have been-- there's certainly other people out at that office, but I don't think anyone else was in that room, in his office I mean.

Q. What took place in this meeting?

A. The meeting was really just kind of a coffee drinking session. Judge Nixon and Mr. Fairchild agreed with each other and expressed pleasure about being able to make the royalty transaction that was contemplated between the two of them, and just a general coffee time for fifteen or twenty minutes. As I recall, Judge Nixon was kind of in a hurry in that he, I believe, was on his way somewhere else, that he might have been going to Jackson or some other place.

Q. Okay.

A. I mean I met Judge Nixon out there as I recall.

Q. Was any-- was the royalty transaction discussed at that meeting?

A. Yes, it was discussed in general terms in that Judge Nixon's expression was that he was pleased to be able to make the royalty transaction and Mr. Fairchild said he was pleased to be able to do so, and that was about the extent of it. It wasn't any great discussion about it.

Q. Were the terms of the thing discussed or negotiated?

A. No, I really think-- I don't know whether they had conversations between them before that time or not, but I really think that that was kind of a settled matter. It wasn't a negotiating session or anything of that nature.

Q. But did there come a time during that meeting where you left them alone together in Mr. Fairchild's office?

A. I don't have a specific recollection of that. I could have because, as a general rule, when I am at Fairchild-- I'm out there a good bit and I'm fairly comfortable there in that I pretty well have the range of the office, I go get coffee and I visit with the other employees. Sometimes the other employees have legal matters to discuss with me that they are handling and so I could have done something of that nature, but I don't have a specific recollection of leaving them alone. There wasn't an occasion for me to do that as I recall.

Q. Subsequent to that meeting, what is the next thing you're aware of involving the royalty transaction?

A. Subsequent to that meeting, the next thing that I'm aware of is the instruments were prepared by Mr. Fairchild's office and were delivered to my office, the royalty instruments themselves.

Q. Are you able to put a date on that?

A. No, I cannot put a date on that. That was sometime after that, which I believe was an early 1980 conversation. It was sometime after that but I cannot put a date on that.

Q. All right.

A. I have tried to determined that but I don't have records that would help me to put a date on that.

Q. Mr. Ingram, I have expressed to you many times in the past how important these dates are; is that correct?

A. You surely have.

Q. What is your best recollection as to when the meeting took place between Judge Nixon and Wiley Fairchild and yourself in Wiley Fairchild's office?

A. Well, as I said to you earlier, I think that that meeting occurred sometime in late 1979 or early 1980 and-- but now I cannot approximate the date any closer than that because there was no reason whatsoever for me to make a note of that or to attach any significance to that.

Q. Did that meeting take place in February or January of 1981?

A. That would not be my best judgment of when that meeting took place, it would not.

Q. Why not?

A. Well, because I tried to give you, in my mind, a sequence of what occurred and that does not fit with that sequence.

Q. Now, I believe I asked you to bring some documents with you to the grand jury.

A. I did, yes. And I have made copies of those documents.

Q. And you will provide us with the originals?

A. Here are the originals (indicating).

Q. All right. Can I keep the folder they're in just so we can keep them all together?

A. Okay.

Q. And I'm going to put sticker Grand Jury Exhibit 3 on the folder containing these documents. Can you briefly--

A. How do operate this water pitcher?

Q. I know your papers have gotten water on them already.

A. They have been in a flood. My office was flooded last year in the great flood in Hattiesburg and so those-- these papers have all been put underwater.

Thank you. (Accepting glass of water)

Q. You're welcome.

Now, is it, what you gave me, with what I have marked Grand Jury Exhibit Number 3, your files regarding these royalty transactions?

A. That's-- that is the documents-- first, let me say, yes, those are the documents that I have been able to pull together. It was a miscellaneous file in our office and so that's all that I know that I have.

Q. I'm putting three documents in front of of you and I'd appreciate it if you can accurately but succinctly describe those documents.

A. Sure. The first document that's before me is a Fairchild-Windham Exploration Company royalty deed to Judge Nixon, to Walter L. Nixon, Jr., it has on here.

Q. What-- can you give each of the three, please?

A. What?

Q. Can you just describe what each of the three documents are?

A. Okay. And--

Q. I said the grand jury has already heard all of that but I just wanted to get sort of a--

A. And it's a conveyance of royalty interests in Covington County.

The second one is a W. R. Fairchild Construction Company, Ltd., royalty deed that is to Walter L. Nixon, Jr., and it's for royalty properties in Marion County. And the third one is an assignment of overriding royalty on oil and gas on properties in Mobile County, I believe.

Q. What is the date that those documents-- what is the date indicated as when those documents were signed?

A. Well, the dates of the execution of the documents as appears here is the 25th day of February 1980, and that's on all three of the documents.

Q. Now, is there some other provision in the documents that says when the document becomes effective. I'm specifically referring to this line here (indicating).

A. Okay. On this instrument here-- and I had not noticed that on any of them. But, on the first two that I named, there is a clause that says, "This conveyance is to be effective from the first day of production."

This conveyance is to be effective on the first dray of production.

Q. And the date that's on here, what does that date represent?

A. Well, this date here is February the

20th, 1980, and ordinarily that would-- that would be considered to be the date that the instruments were executed, in other words, that they were signed.

Q. In other words, someone looking at that document, if they went to look at this document, would be given the information, with witnesses, that says this document was signed February 25th 1980--

A. I think--

Q. -- if this is properly executed?

A. I think ordinarily that that's what you would-- you would assume. However, it is not at all unusual to have instruments that bear a different date from the date that they are-- from the date that appears on the instruments.

Q. Can an instrument be dated to have an effective date of a transaction and yet it be signed on the date when it says it's signed?

A. Oh, it can, if I'm understanding your question.

Q. But as a lawyer, when something says that the signature of the grantor this blank day, what this says, in a legal sense, is the day the document was signed?

A. Ordinarily, unless you have some facts that show you to the contrary, that's what you would assume.

Q. Were, to your knowledge, those documents actually signed on February 25th, 1980?

A. I do not have knowledge that they were signed on that date, no.

Q. Do you have knowledge that they were not signed on that date?

A. My best knowledge is that-- that the instruments were delivered to me and I do not know what date they were signed so I don't have the specific knowledge of the day these instruments were signed.

Q. Once the instruments were delivered to you--

A. Yes.

Q. -- and again, how long-- what time frame do you believe it was that those instruments got delivered to you? And those are the originals, are they not?

A. Yes, they are the originals.

Q. When do you believe was the first time you saw those documents?

A. When was the first time that I saw

these documents?

Q. Yes.

A. I do not have a memory or a specific recollection of the first date that I saw these documents. These documents were delivered to my office at sometime after February 25, 1980 as I recall.

Q. How do you know that?

A. Well, I know that because in the ordinary course of doing business with Mr. Fairchild he has people who go to the post office and who go to the bank and on regular-- probably twice a day, and it is not unusual for them to bring documents to my office. And, as I recall, these were delivered to my office sometime after February 25, 1980.

Q. Well, if he signed that document on February 25, 1980, as the documents on its face indicates, why could it not have been brought to your office on that date if--

A. It could have been.

Q. -- twice a day?

A. It could have, but I'm saying to you that I don't know that they were delivered to me on the date that they were signed. And I don't know that they were signed on this date is what I'm saying to you.

Q. How can you be so certain that you didn't get those on February 25th, 1980?

A. Well, I can't be certain about that. Mr. Richter, I'm trying to say to you that it's my recollection and my belief that I didn't get them on February 25th, 1980, but I don't know that.

Q. When do you think you got them?

A. I got them at sometime after this date, and I do not know specifically when I got those instruments. I don't have a-- I don't have a memorandum to that effect so I-- you know, I handle so many transactions in my office until there's not any way for me to go back four years and pick out a date when an instrument was delivered to my office, or it wasn't, unless there's a cover letter with it or unless there's some indication that this instrument was delivered at that time.

Q. What is the latest you believe you could have received those documents?

A. Well, I don't have an ability to put when is the latest I believe I could have received those documents. I think that sometime after the

25th of February 1980 I received those documents. Now-- and because, along with these documents, I prepared the promissory notes and conformed them to this date on this-- these instruments, and I know that those instruments were conformed to this date.

Q. How does that help you know what date it was?

A. Because, as I recall, I conformed those-- it was after the 25th of February 1980, and I conformed those documents to this date.

Q. Now, when you refer to the promissory note--

A. Yes.

Q. -- you're referring to-- this is one-- there are three of those, right?

A. There are three of them, yes.

Q. And here's an-- and they're among the documents you produced to the grand jury today; is that correct?

A. Right, that's correct.

Q. Now, when you say you conformed the dates, who signed that document?

A. Walter L. Nixon, Jr., signed this document, these three documents.

Q. What is-- where is the date presented on that document?

A. It's presented at the bottom page.

Q. What is the sentence that's--

A. Says "Witness execution hereof on this the 25th day of February 1980.

Q. As a lawyer, what does that mean to you?

A. Well, unless you had facts to the contrary, you would assume it was executed on that day.

Q. On February 25th, 1980?

A. Yes, right.

Q. And anyone that didn't know about this transaction that were to look at that note would believe that it was executed on the day it says it was executed?

A. Well, as I just got through saying to you, unless you had facts to the contrary, that's what you would assume, Bob.

Q. Couldn't you have drafted the promissory note to say it was effective as of February 25th, 1980 and then have the accurate signature date on it?

A. Absolutely, I could have, and I wish I had. Because what actually occurred in this was that the royalty deeds were delivered to my office and I prepared the promissory note based on instructions I had and I conformed it to that date.

Q. What were the instructions you had?

A. Well, the instructions I had was to take the deeds, deliver them to Judge Nixon and to take promissory notes.

Q. Who gave you those instructions?

A. Mr. Fairchild.

Q. Did he give you instructions to prepare the promissory note?

A. He did, yes.

Q. So it's your testimony that that promissory note was prepared at the time you received the deeds that are in front of you that are dated February 25, 1980?

A. These-- these promissory notes were prepared shortly-- in a short period of time after I received the deeds, on whatever date that was. Then these promissory notes were prepared within a matter of days after that because my instructions were to deliver the deeds, get the promissory note signed. And when I say "instructions," a lot is assumed in that.

Q. You were not necessarily-- Mr.

Fairchild didn't necessarily tell you to do this, that's the way--

A. No.

Q. -- that's the way these transactions are normally handled?

A. That's right. That's exactly right, yes.

Q. What did you do once you prepared the promissory note?

A. Then, at sometime shortly after that, when I had an occasion to go to the coast, to be on the coast, I took the deeds to Judge Nixon and had him to execute the promissory notes.

Q. Then what did you do?

A. I brought them back with me.

Q. When did the promissory note get conveyed back to Wiley Fairchild?

A. I believe and would just really-- Bob, I would have to assume the time frame on that, but some reasonable time after I got back with the instruments, then the promissory notes would have been delivered to the Fairchild office.

Q. So this-- what time frame are we talking about?

A. I would say just a reasonable time.

When I got the notes back, when I brought the notes back with me, then it-- at some convenient time after that, they were delivered in the normal course of business to his office.

Q. What is your best recollection of the time frame that this occurred?

A. Well, I would think a few days or a few--

Q. Month and year?

A. Beg your pardon?

Q. Your best recollection, month and year?

A. I don't have a recollection of a month and a year on them. I'm giving you the sequence of when I brought the deeds and the notes back from Judge Nixon's office. Then the notes belonged to Mr. Fairchild, belonged to his office, and so they were appropriately delivered to his office.

Q. Now you recollect receiving the deeds from Wiley Fairchild's office; is that correct?

A. Do I recollect?

Q. Do you recollect when you first-- assuming you don't recollect the date, do you recollect the fact of receiving these deeds from Wiley Fairchild's office?

A. Yes.

Q. All right.

A. Yes, I-- and that recollection is based on the normal conduct of transmitting the documents back and forth from my office to his office. It was, as I had said, customary and ordinary for people in his office to drop things off, drop documents off at my office, and I believe that's what happened here. I have no reason to believe otherwise but I don't have-- if you are asking me do I have an independent fact of recollection that Billy Riley or Margaret Buckley or anyone else at the Fairchild office brought these documents there, no, I don't, because as a custom they bring the documents to the front desk, in an envelope, and leave them and I never see them. I never see the person who brings them.

Q. Do you know who drafted those documents?

A. I do not, no, except that they were prepared by someone at the-- I'm assuming at the direction of Mr. Fairchild because I asked specifically about the preparation of the instruments and he said that he would have them prepared.

Q. Did you give anyone in Mr. Fairchild's office, including Mr. Fairchild, any instructions as to how these should be prpared?

A. The instruments?

Q. Yes.

A. I don't have a recollection of that, no.

Q. Did you ever--

A. Because he had-- these were royalty transactions and overriding royalty transactions and he would customarily prepare those.

Q. Did you ever tell anyone to leave the name of the grantee blank when the deeds were prepared?

A. No, I did not. I don't recall doing that, and I think I would recall that.

Q. Did you he ever tell anyone at any point to change the date that was on these deeds at one time?

A. I don't have any recollection of that, no.

Q. Would you remember it if you had?

A. I really believe I would, and I certainly don't have a recollection of doing that. I don't know that there would be a purpose for doing that.

Q. Did you ever receive from Mr. Fairchild's office deeds covering those royalty interests with a date one year later than February 25th, 1980?

A. Bob, I have no recollection of ever receiving deeds with a date one year later.

Q. Did you ever receive the deeds in and look at them and send them back to Wiley Fairchild and ask that they be changed to read the way they read right now?

A. I don't know. I did not have any recollection of doing that.

Q. Did you do it?

A. Not do the best of my knowledge, I didn't. I would not have had a purpose for doing that.

Q. I notice you're giving all your answers in terms of recollection; is that correct?

A. No, I'm not giving all of my answers in terms of recollection. But here is a transaction, Bob, that occurred four years ago, some long period of time ago, and I don't have cover letters that give me dates on those things. I don't have something that puts a milepost there for me to give a specific date, and all I can say is what is my honest, best, sincere recollection because that's the best I can do.

Q. Well, not talking about dates now, what I'm-- did you ever receive the deeds from Wiley Fairchild and send them back and say put a different date on them?

A. I don't have any recollection of doing that, and I believe I would remember having done that.

Q. You have some involvement in setting and enforcing ethical standards for lawyers in Mississippi; is that correct? Or have had?

A. No, I don't have.

Q. Have you had in the past?

A. No, I don't-- I haven't had. I think what you're referring to is that during my professional career, and particularly during the time that I have been in the senate, that I have-- and while I was chairman of the Judiciary Committee, I handled legislation on the senate floor that dealt with ethical standards and ethical conduct and, yes, I have had a very strong interest in that. I surely have.

Q. If you were called upon to lecture young lawyers on ethics and someone asked you whether it's proper to indicate on a document that it was executed on a date other than it was actually executed, what would you say?

A. Well, I would think that the date wou that the answer to that would depend upon what document that you are talking about. It may be that the parties wish to have that instrument to be effected on that date, and if it's between tw parties and it does not cause an injury or harm any third party, then there'd be times when that would be appropriate.

And I had an experience like that thi last week. I went to Atlanta to close out a corporate setting where a corporation in Georgia was being set up. And I went to one of the largest law firms in that state, the Hansel, Pos firm, and as that-- as those documents were sign they were not signed on the actual date that was there. And that's something that's done customarily and commonly when you're effecting a instrument on a particular date among two partie or among closed parties.

So it depends on what the instrument Bob, so I don't think that there's an ethical question of an ethical matter there.

Q. For example, on the back of these documents there's a notary indicating the date that it was signed by Wiley Fairchild on the deeds; is that correct?

A. Yes.

Q. And indicates February 25th, 1980?

A. It does.

Q. And would it be ethical for a notary who is-- what is the job of a notary?

A. The job of a notary is to attest to the signature of the parties.

Q. And presumably that would include the date that she's-- that's part of the purpose in--

A. Because that's part--

Q. -- of having the notary?

A. That's part of the purpose of having the notary; that's correct.

Q. And these documents reflect that the notary said that Wiley Fairchild signed them on February 25th, 1980; is that correct?

A. Yes, it does, correct.

MR. RICHTER:

Q. I would like to discuss scheduling with the grand jury. If you could step outside for a moment and then we will let you know whether we'll go to completion at this point or whether we will break for lunch and come back.

A. Okay.

(Witness leaves room.)

MR. RICHTER:

We have some documents that we want to confront Mr. Ingram with him and I didn't want to do it right before a break. I'm wondering whether you feel you can go to one o'clock, want to go to one o'clock, or whether you would rather break now and come back at 1:30 o'clock. And I can't guarantee that we'll be done by one o'clock.

Because I'd like to-- once I start on the next area with him, I would like to be able to go until it's finished.

A JUROR:

Knowing you, it's probably going to be 1:30.

MR. WEINGARTEN:

You're probably right, let's break.

MR. RICHTER:

Let's break, be back in an hour. We have an awful lot to cover in an hour so everybody try to be back.

(Noon recess from 12:35 to 1:30 p.m.)

MR. WEINGARTEN:

You can remind him he is still under

oath.

(Witness returns.)

THE FOREMAN:

I remind you that you are still under oath.

THE WITNESS:

Thank you, sir.

CARROLL INGRAM,

previously sworn, continued to testify:

EXAMINATION (Continuing)

BY MR. RICHTER:

Q. Mr. Ingram, the royalty deeds that are in front of you, these are the deeds that you testified you received at some point in time from Wiley Fairchild?

A. That's correct.

Q. And it's--

A. Or from his office. I --

Q. Who took care of the filing of those deeds in the public record?

A. I mailed them for recording.

Q. When did you do that?

A. I mailed them for recording sometime in April of 1981, I believe. In the file that I have given you are cover letters that were-- they were mailed, I believe.

A. Yes, there's one or-- there's one attached to this (indicating) but--

Q. This is the whole file right here (indicating)?

A. Yes. Maybe there's not a cover letter there, but the recording information is on the back of the instruments, where the clerk recorded them.

Q. Now, if you are relatively certain, and I take it that you don't recall exactly, but that these deeds were received by you in the early 1980 area, why did it take so long to get them filed?

A. Well, I don't think that my testimony was that I received the deeds in early 1980.

Q. What is your testimony as to when you received them?

A. My testimony was that I received these deeds sometime after the 25th day of February, 1980. And exactly when they came to my office, I cannot determine. Actually, when I received these deeds, I cannot determine from independent knowledge.

Q. Let's go at it from another direction.

A. Okay.

Q. Did you become aware at some point in time of Drew Fairchild's involvement in a narcotics case?

A. I did, yes.

Q. And do you have a recollection of when you first became aware of that?

A. No, I do not. I do not have a recollection of when that was but I have a recollection of some of the events of that.

Q. Well, what's the first event when you-- the first event that you became aware of involving that case?

A. Sometime about the time that Drew Fairchild was in some negotiation with the federal narcotics people.

Q. We have heard evidence that Drew Fairchild struck a deal with the U. S. Attorney's office in November of 1980, okay?

A. Okay.

Q. If that is the case, would it have been around that time that you were aware that Drew had this problem?

A. I can assume that because Drew Fairchild contacted my office at that time and with regard to the possibility of him employing our firm to represent him in that matter and he said at that particular time that he had either negotiated a deal, through his lawyer, with the federal narcotics people or the U. S. Attorney's office, whoever he had negotiated a deal with. His lawyer at that time was Bill Porter, and we talked to him about that for about twenty or thirty minutes.

We did not accept employment in his case and so that would be about the time that I became aware that he had a drug problem.

Q. In other words, you became aware of it because you had direct contact with Drew and discussed it with Drew?

A. Sure, right.

Q. Did you receive those documents before or after you became aware of Drew's problem in the narcotics case?

A. It's my recollection that we received them before.

Q. If, in November of 1980, and thereafter-- I assume, based on your meeting with Drew, you understood at that point that his case was being considered by the federal prosecutors?

A. Yes, by the federal narcotics agents

was basically what I understood.

Q. And had you learned that the other people involved in the case-- some of the other people had already been convicted in federal court?

A. Bob, I just don't-- I just don't have an independent recollection of that-- of that because that wouldn't be something I would know about.

Q. Had it been in the paper in Hattiesburg, then you think you would have known about it?

A. Yes, I think so. That was a well publicized sort of thing and I would have certainly been aware of that.

Q. If at the time-- would you remember if at that time you received those deeds you were aware that Drew had his case pending in the federal system?

A. I think I would have.

Q. Would that have rung a bell with you saying wait a minute, Drew has a possibly federal criminal case and here's his father cutting a deal with the judge?

A. Well, I believe it would have, Bob, and I-- in this circumstance, I knew that the agreement for the royalty transaction had been agreed upon and certainly I think that there was never any indication in my mind that there was a connection between Drew Fairchild and the royalty deeds. That wasn't-- wasn't ever one time a consideration on my part or a thought on my part.

Q. So can you say that you must have received those prior to the time when Drew came to your office in November of 1980?

A. I can say that it is my belief that I did.

Q. The promissory note--

A. Yes.

Q. -- that you have there--

A. Okay.

Q. -- would that have been typed in your office?

A. Yes, I think it was.

Q. Where else could it have been typed?

A. Well, I think it was typed in my office. That's what I believe and that's what I have a memory of doing. I didn't type it but I'm confident that it was typed in my office.

Q. And is it your testimony that it was typed in your office sometime between late 1979 and when?

A. The promissory notes were typed in my office at a time approximately when I received the deeds and when I delivered them to Judge Nixon.

Q. Are you-- who would have the responsibility-- how many typewriters are in your office?

A. Well, now or then?

Q. Then.

A. I would say three. I'm not sure about that, but I would say three.

Q. How many are in your office now?

A. I would have to count them up, probably seven.

Q. Were the typewriters harmed in the flood at all to your knowledge?

A. Not to my knowledge.

Q. Would you be willing to let the F.B.I. get samples from each of the typewriters and examine when they were purchased to ascertain in fact when the typewriter that typed that was come by or--

A. I would see no reason to why I would have an objection to doing that.

Q. Have you gotten--

A. That hadn't been, you know, a consideration. No one's asked me to do that.

Q. Have you gotten rid of any typewriters in the last four years?

A. We very well could have. We surely could have because we have done like most people. We have computerized our office and so we don't-- we probably don't have all the typewriters that we had before.

Q. Would you-- would there be anywhere in your office that would have records of the purchase of typewriters and so forth?

A. Yes. Oh, sure, yes.

Q. I'm going to be showing you a document that I have just marked Grand Jury Exhibit Number 5 and ask if you can please look at those.

(Witness looking at exhibit.)

A. You can-- okay.

Q. Can you describe what that is, what those papers are that I have given you?

A. Well, these papers appear to be a royalty term deed that's consistent with the deeds which I have just given you with the exception of the date.

Q. These are royalty deeds that cover the same properties; is that correct?

A. That's correct. I believe that's correct. I have not examined them in that detail but that appears that they are correct.

Q. And what is the date on those deeds?

A. The dates on these copies is February 25th, 1981.

Q. Who is the grantee on those deeds?

A. The grantee?

Q. Yes, sir.

A. The grantee is blank.

Q. Sometime subsequent, on or subsequent, to February 25th, 1981, did you receive copies of those deeds?

A. Bob, if I did, I certainly do not recall having received them.

Q. Would you recall had you received them?

A. Well, I think I would.

Q. I'm handing you a glassine envelope containing a brown envelope marked Grand Jury Exhibit Number 4. And what is inside the plastic covering? Can you just describe it for purposes of the record, what is it you see.

A. Oh, there's a-- a-- looks like an envelope that has "Wiley Fairchild" on it, "personal conf--," and then has "Carroll Ingram" down at the bottom.

Q. Does that look like your writing?

A. No, I'm afraid not. The--

Q. Do you recognize that writing at all? In the red ink.

A. Well, up at the top where it says "Wiley Fairchild"--

Q. Yes?

A. -- that looks like it could be my writing but because it's poor. It's poor enough to be but I don't believe it is, Bob, I really don't. I don't think that is my writing. I have a very poor handwrite, and particularly this down here (indicating) is not, where it says "Carroll Ingram" is not mine.

Q. Do you state equivocally that that could not be your handwriting?

A. No, I wouldn't say that equivocally. I'm telling you what I believe. And this very well could be an envelope that came to my office and was delivered to Fairchild, very well could have been.

Q. Do you recognize-- wha is written on the envelope?

A. It's written on the envelope, has Mar--

Q. Above where it has the message you just read.

A. -- has Marion, Covington and Mobile.

Q. Are there numbers before each one?

A. Uh-huh.

Q. What are the numbers?

A. Looks to me like three, five, and three.

Q. Looking back at the deeds I have previously showed you, the one dated February 25th, 1981--

A. Uh-huh.

Q. -- the part of the deeds that talk about how many acres are being transferred--

A. Uh-huh.

Q. -- can you-- what-- is there anything unusual about the way it's written? You can give each one. I believe on top here you have the Marion County well?

A. Okay. The Marion County property, what you do you mean is there anything unusual?

Q. In other words, what-- how is it written the way-- how is it typed? How many acres are being transferred in the original typed version?

A. One full overriding royalty acre.

Q. Is that changed on that copy?

A. It is. It's-- there's a-- the "one" is stricken and there's a "three" there written in.

Q. So as it was originally typed, to the naked eye it would be one acre; is that correct?

A. Yes, uh-huh.

Q. And the next deed is the Covington County deed?

A. Uh-huh.

Q. And whas are the figures on that, and the numbers?

A. Well, it's originally typed "one" and then it's stricken through and put "five.

Q. And then the Mobile County?

A. It's "one" and then stricken through and put "three.

Q. Do you have any knowledge of why that change was made?

A. I surely don't, Bob. I cannot recall anything that triggers that.

Q. If you had received that document in February 1981 and sent it back to Wiley Fairchild, would you remember that?

A. I think I would. I would hope I would.

Q. Did--

A. But I don't have a-- I don't have a recollection of having received this instrument, I really do not.

Q. Did you ever receive that instrument from Wiley Fairchild from his office and send it back with instructions to back date it?

A. Bob, I do not recall that. No, I surely don't.

Q. Did you do it?

A. To the best of my knowledge, I did not. I just got through saying I do not recall having done it.

Q. Is that something you could have forgotten?

A. Well--

Q. You have to understand that there's a need to be precise in this thing and--

A. And I want to be just as precise as I can, but I do not want to testify to something that I'm not certain about and something that I don't know about. And no matter how much I would want to agree with you, and I'm a fairly agreeable person, I can't-- I can't testify to something that I do not know.

Q. In February 1981, you were aware that Drew Fairchild's case might be prosecuted federally; is that correct? February 1981?

A. In February of 1981, it would be my belief that I would have known that he had the drug problem, yes.

Q. Knowing that, would you have instructed someone to back date those papers?

A. I don't think--

Q. At that time, February -- in February 1981, at that time, knowing about Drew's case, would you have instructed somebody to back date those documents?

A. I don't think that knowing that or not knowing that, that I would have instructed someone to back date the papers, okay?

Q. Did you ever see the deeds that have been marked Government Exhibit Number 5, the original copy of those deeds? That's a copy you have.

A. So far as I know, I did not. I'm trying as hard as I can to have a recollection and I do not recall having seen these instruments.

Q. Would you be willing to provide fingerprint exemplars to the F.B.I. so that they may compare them to fingerprints lifted off both this envelope and the original of the deed?

A. Well, my posture has been, from the very time that you and I talked, that I want to cooperate with you in every respect and do everything that I possibly can to help truthfully, forthrightly and accurately answer any questions that are there, and I will continue to do that. I-- as I said a moment ago, no one has ever suggested to me that I do that. And I'm kind of, now, sitting in here for the first time, a little bit surprised that that would-- that that suggestion would be made.

Q. Would you be willing to provide your fingerprint exemplars to the F.B.I. for purposes of--

A. As I said awhile ago--

Q. -- for purposes of making those comparisons?

A. -- a moment, I will be glad to cooperate in every way possible and try to do what can be done to get accurate information. And now that's a consideration I have not even considered, but I'm sure I would. I would have no reason that I would know of not to.

Q. I take it you're saying you will?

A. Bob, I wasn't say I will or I won't. I'm saying that that's the first time that's been mentioned to me, and I've told you repeatedly that I'll be glad to cooperate in every respect, and have done that, since the first time you and I visited. And we will continue to do that.

Q. So it's your statement you will provide fingerprint exemplars to the F.B.I.?

A. Well, I'm sitting here and I don't know any reason why I shouldn't and--

Q. Do you wish to go out, and let me remind you-- let me remind you that the grand jury has the power to order you to give the fingerprints.

A. Certainly, and I understand that, and I'm not trying to avoid it. I'm just simply saying that no one suggested that do I that. In fact, no one has put me in that posture up until right now.

Q. You understand the purpose, why I'm asking?

A. Well, sure I do. And I'm saying to you that I'll cooperate in every respect that you need to have cooperation, and I see no reason why I couldn't do that.

Q. So at the risk of being redundant, you will provide fingerprint exmplars?

A. As I have just got through saying, I see no reason why I shouldn't. I think that's-- if that's going to be a requirement of me to do that or request for you to do that, I think I ought to be able to consider that and to do it.

Q. My point is, I don't necessarily wish to make it a requirement. But if you don't agree to it, then we'll make it a requirement.

A. Well, I'm just simply saying to you that I wish to cooperate, and I will cooperate, and I see no reason why I shouldn't be able to do that if you wish for me to do that. But, you know, to just give a blanket commitment here on something that has never been considered before, I don't think it's really fair.

Q. Do you wish to go out and consult with your attorney?

A. No, I don't wish to consult with my-- with anyone.

Q. Well, I'll leave the choice to you. Either, on the record, you can agree to provide the exemplars in a yes or no fashion, or we will adjourn and let the grand jury vote on whether or not they wish to receive exemplars of your fingerprints for comparison purposes.

A. Bob, I don't see--

Q. I will leave that to you.

A. Then, you know, I don't see any reason why I shouldn't do that. And I have said to you that I'll cooperate and so, for the record, then, I will do it if that's-- if that's, in essence, a requirement for-- that you want me to do it.

But what I have said is simply a matter of consideration, you know. That request--

Q. Well, I apologize if this took you by surprise.

A. It takes-- it does take me totally by surprise.

Q. I apologise for that surprise.

A. It takes me totally by surprise because I have had no indication whatsoever that that would be even a consideration. And I want to just-- I have volunteered on-- every time that you wanted to talk to me, I volunteered on every effort to be open and completely aboveboard and to cooperate in ever respect, and I still do that today, and I just-- just want you to give me consideration too.

Q. How would you like me to take that, as a yes or no?

A. Well, it's certainly not no. And I said to you that I don't see any reason why I couldn't do that.

Q. Going back to your knowledge of Drew Fairchild's criminal case--

A. Okay.

Q. -- I believe you testified your first awareness of it was when Drew came to you after-- did he come to you before or after he went to the U. S. Attorney's office?

A. It must have been after because he-- he said that he had negotiated a deal, I believe, as he put it, with the 'federal narcs,' federal narcotics people.

Q. And you--

A. Or his lawyer had.

Q. And you told him that you didn't want to represent him?

A. That's correct.

Q. Did you ever say anything to the effect that you didn't want to represent him but you would help him behind the scenes?

A. No.

Q. Did you offer him any assistance of any kind?

A. I didn't offer him any assistance other than the courtesy of a visit, visit to our office, and my law partner and I interviewed him or he interviewed us, ever how it was, and we believed that he had good counsel. And, in fact, based on what he and his counsel told us, it sounded like a reasonable arrangement that he had worked out with the federal people and we didn't see any reason why we should be involved in the suit.

Q. Do you remember subsequent to that whether you had any other contact with Drew concerning his criminal case?

A. Oh, yes, I did. Back a few months ago, after Bill Porter was killed in the plane crash and the case was on the circuit court docket here in Hattiesburg, Drew Fairchild came do my office again seeking to employ a lawyer or I believe-- he actually never did come out and say I want to employ you but came to talk to me about that, and I told him I thought it was still appropriate for him to have other counsel.

Q. Did you ever discuss Drew's case with Wiley Fairchild?

A. Yes, I have. That's his father.

Q. What would have been the context then and, if you can, the time frame of these discussions?

A. Well, since the-- you know, since the federal matter came up, there isn't any question about that on a time or two, whenever the occasion was appropriate, I have discussed his case with Wiley in terms of Wiley's interest in what is happening to Drew and-- but not in any-- I've not had any official thing to do with Drew's case, official representation.

Q. Did you ever give Wiley any advise to what posture Drew should take or any actions Drew should take or anything he should do?

A. Yes, I would say I did. In terms of just saying to Wiley on-- particularly in the federal-- in state court action when the matter came up and Drew did not have a lawyer. One of the things I told Wiley to do was that I thought Drew should have a lawyer and if he couldn't get lawyer I thought he should go directly to the district attorney's office and discuss the matter with them until he could get a lawyer.

Q. Did you ever discuss Drew's situation with Bud Holmes?

A. Yes. And that would be in general terms, not in any official terms. It's kind of hard to not discuss something with Bud Holmes. If you know Bud Holmes, hew-- if he meets you in the parking lot where your car is parked or in the-- whatever case has been on the docket that day, he tells you about it. He's that sort of person. And that's no criticism of him, that's just accurate. And so I know that he-- that I have had an opportunity to discuss it with him but not in any official capacity. I have not asked Bud Holmes to do anything for Drew Fairchild and I have had not asked Bud Holmes to do anything about his case whatsoever.

Q. Did you ever discuss the Drew Fairchild narcotics matter with Judge Nixon?

A. No, I did not, have not.

Q. Did you ever discuss it with Mr. Porter, William Porter?

A. Yes. When Drew Fairchild called my office and told me that he wanted to come see me about the matter, he told me that Bill Porter was his lawyer and I told him I would not see him without the permission of his lawyer. I called

Bill Porter. Bill Porter happened to be not in his office but happened to be sick and at home that day. I called him at his home and he said that he had no objection to my seeing him and in fact wanted me to see him and therefore I allowed him to come.

Q. What was the nature of your discussion?

A. The nature of the discussion was Bill basically told me that he had worked out an arrangement with the federal narcotics people that he thought was a good arrangement and that he thought Drew ought to take it and that he would be glad to have my assessment of it after I talked to Drew.

Q. Did you ever discuss it with William Porter after Drew got indicted by Bud Holmes?

A. I don't have any recollection of that now. No, I don't believe I did.

EXAMINATION

BY MR. WEINGARTEN:

Q. Just discussing a little bit further the Drew Fairchild case, did Wiley Fairchild ever tell you that he was considering going to the press about the case, about how it was being handled by Bud Holmes?

A. I don't think he told me that. He did call me sometime during the handling of the case and I would say he was disturbed about the handling of the case.

Q. What was the nature of his concern? What was he concerned about?

A. Well, I think that he was concerned that the case was lasting as long as it was and it seemed to be up and down, off and on. It seemed to be in the press a good deal and every time it was in the press it involved him, it involved his family.

Q. Did he ever complain specifically that he felt he was being exploited or blackmailed by anybody?

A. No. No, he felt that-- he felt-- he felt displeased about the way that the case was being handled and I think maybe his feelings were that it was being left on the docket just to-- just to cause him difficulty or to cost him money. But now for him to accuse somebody of extortion or blackmile, he didn't to me.

Q. Well, when he implied that it was going to cost him money, to what was he referring?

A. I don't know. I really do not know

that. I'm-- I could only assume that he would be talking about fees for his son or legal costs or the cost of fines for his son if he were going to make those payments.

Q. But what did the delay have to do with legal fees or costs of fines if nothing--

A. Oh, I don't know that. Wiley called me when the-- when the matter came up last on the circuit court docket for sentencing or for disposition or whatever it was, and he was disturbed about it. But now that conversation lasted five minutes and it wasn't any great detail about it.

Q. Did you try to dissuade Wiley from going to the press?

A. Oh, no, no. Fact, I don't recall his saying that he was going to the press. I don't know what he'd go to the press about.

Q. So he never said that to you?

A. Not that I recall.

Q. Did he ever complain about Bud Holmes shaking him down for money?

A. No. He didn't complain about Bud Holmes shaking him down for money. He complained, as I said to you, about the-- about the handling of the case on the docket, as it-- as it was over a period of time. But now to use that phrase "shaking him down for money,"--

Q. All right. Anything similar, that not being Wiley's phrase but something akin to that?

A. No, not that I-- I don't have the perception from that phone call that that was what he was talking about.

Q. Did Wiley ever ask you to somehow take the case out of state court and put it back into the federal process?

A. He didn't ask me to do that but that was-- that was one of the things that Drew discussed when he came to see-- when he came to see me that-- the second time that he came to see me. In other words, he had been advised by Bill Porter that the case had been on the docket so long over in the state court that they could go to the federal system and somehow enjoin the proceeding in the state court. And he wanted to know whether or not he could do that or not and I told him I didn't know whether he could do that or not but that was something that his lawyer needed to research and his lawyer needed to give him an opinion about.

Q. Did you ever discuss that subject with Wiley?

A. Well, I think-- you know, that's entirely possible. Wily could have asked me if-- if that were possible to do that, but I don't recall that at all.

Q. Did you ever respond to either Wiley or Drew that to accomplish such a thing would be a very expensive process or procedure?

A. No.

Q. Did Wiley have a great concern that Drew may go to prison either federally or on the state level?

A. Did he have a great concern?

Q. Yes.

A. You need to expound on where you're coming from with that question. Drew Fairchild is a-- he must be fifty years old, and so when you talk about somebody's son, I ordinarily think of somebody much younger. Drew is probably fifty years old. Drew has been an estranged son from Wiley by a-- and he is a son by a previous marriage, okay? He and his father have not had a good relationship down through the years. And, in fact, I was really pretty much of the impression that during some of all of this time that there relationship was not good or was not the best.

Q. From your--

A. So now I think that certainly Wiley would-- and this is an assumption on my part. He didn't ever discuss a concern with me. I certainly think that he wouldn't want his son to go to prison no matter what kind of relationship they have.

Q. Did he ever articulate to you any concern the reputation of the Fairchild's and how that may be affected if Drew went to prison?

A. No, not if he went to prison. But there isn't any question that Wiley did not appreciate every time that the-- the Drew Fairchild case came up on the docket, television and the newspapers here in Hattiesburg rolled that story over again and, every time, involved the Fairchild family by going through that. And it certainly was an unpleasant experience for Mr. Wiley Fairchild, who, so far as I know, had nothing to do with the drug situation. And I don't think anybody in the community thought he had anything to do with it.

Q. Just getting back briefly to the

o· lty deeds, you testified about one meeting hat you attended at Mr. Fairchild's place of usiness also attended by Judge Nixon and Wiley airchild; is that correct?

A. Yes.

Q. Did you attend any other meetings of those two gentlemen?

A. No, I didn't.

Q. Were you aware of any meetings between Judge Nixon and Wiley Fairchild wherein they met alone?

A. I wasn't aware of them but that doesn't mean that they could not have taken place or telephone conversations or-- I think I am aware that maybe they had telephone conversations during all of this time.

Q. Were you aware of any other sit-downs that Judge Nixon may have had with Wiley Fairchild at Wiley Fairchild's place of business?

A. I was not aware of it, no. The only one-- the only knowledge that I have of a meeting between Fairchild and Nixon was the one I told you about this morning.

Q. And as we sit here, you know of no other meetings that took place?

\. No, I don't.

Q. The promissory notes that I'm sure e very familiar with at this point are broken into three, with various sums with the ous notes. Who set those terms? Who set e figures?

A. I think that I-- I believe that Mr. y Fairchild set those amounts. I really don't ill how these amounts came about. The total unt was ninety-five hundred dollars and that the amount of the transaction. It could have n that I broke it down when I made the notes on m.

Q. If you broke them down, what criteria d you use?

A. I feel sure I used some criteria that s based on a conversation between Wiley and self, otherweise I would not have known how to ave done it.

Q. It's somewhat of importance. Is it ossible that you set those figures?

A. I don't think so, I really don't.

Q. Is it your testimony that you got those f res from Wiley?

A. It's my testimony that I believe I

would have gotten those firugres from Wiley. I got the ninety-five hundred dollar figure from him, I'm confident about. Promissory notes, the breakdown on that, it's reasonable to me to believe that thatr-- that I got the information from him, but now I don't know that. I wouldn't know how to value those properties is what I'm saying to you.

Q. Well, were you given discretion to put in any figures that you chose?

A. No, I wasn't given discretion about those matters.

Q. Are you certain you simply didn't present these to Wiley as an accomplished fact and say these are the notes?

A. I presented to him the notes after they were executed, yes.

Q. I'm talking abokut the terms of the notes, for example one note being forty-five hundrec dollars, 10 percent interest, three years. Did you set those figures?

A. I don't believe I did. Those would be the figures that represented the value of the transaction. I had to have gotten those from Fairchild.

I guess the question is, did you make
e figures?

No. I wouldn't have any reason to have
those figures.

Do you have copies of the loans in
›f you and do you have copies of the royalty
in front of you as well?

. Well, I did have. What happened to my
I had a copy set. I need to take it back
office with me.

]. Those are copies that are already
a the grand jury.

\. Now, which are these (indicating)?

Q. Do they not represent the royalty deeds
February 25th 1980?

A. Yes.

Q. Are they identical to the deeds you
ıht with you today?

A. I think.

Q. To the best of your knowledge?

A. What?

A. To the best of your knowledge.

A. Well, I think they are. They're
ıc size and I would think they are.

Q. Here's the point, and the confusion I'm trying to clear up, as you sit there today, what does the date February 25th, 1980 signify?

A. I really think that that signifies the approximate effective date of when this transaction was made, when they made an agreement to purchase these royalty instruments.

Q. What does the-- what is the legal effect of that date?

A. What is the legal effect of that date?

Q. Yes, sir.

A. Well, I would think the legal effect of that date would be when the instruments were executed.

Q. Well, what does that mean as a matter of law? Does that document become effective February 25, 1980 for any legal purpose?

A. Not that I can distinguish to you because the conveyance itself says that the conveyance is to be effective from the first day of production.

Q. All right. So what is the point of putting February 25th, 1980 on the documents?

A. I do not know that. I'm simply saying to you that I-- what I believe it to be, it represents an approximation of the date when the t agreed upon this transaction. That's all that I can think of.

Q. Why would anybody put that down on that document? I mean it's clearly not the date the document was signed and it's clearly not the date that the document became effective, so what's the point of it?

A. I don't know that.

Q. Did that question cross your mind at any point prior to today?

A. Not-- Oh, yes.

Q. I mean when you were involved in this transaction.

A. No, it has not crossed my mind.

Q. It did not?

A. Beg your pardon?

Q. I mean the questin is, did it, while you were engaged in this transaction, occur to you as a question?

A. No, it did not occur to me as a question because here-- here I knew, in my own mind and I knew from the facts and the circumstances that were involved, that these two people had a royalty deed transaction that they had agreed upon and they had agreed upon it even prior to this date, so that date would have had no-- would have not triggered anything in my mind to say that there's anything improper about that date.

Q. I believe you testified that you received those royalty deeds with the instructions to transfer them to Judge Nixon prior to your knowledge that Drew was in trouble.

A. I believe that, yes.

Q. And did you also take those deeds and the promissory note to Judge Nixon prior to your knowledge that Drew Fairchild was in trouble?

A. I believe I did, yes. As best I can recall, I surely did. I have operated under that assumption. I did not recall or know when Drew Fairchild had his trouble until night before last when you and Bob and I talked and you advised me of the November 19, 1980 deal. I did not know that date until that night. And it had been my assumption all along and my belief all along that these royalty deeds had been transferred before that time, before the-- those circumstances. And now, you know, that's the best of my memory and the best of my ability to tell you.

Q. All right. And your best memory is totally inconsistent with you receiving royalty

.r Pebruary 1981 and instructing Fairchild's
to back date them a year; is that not
t?

. It's totally inconsistent with that?

:. Right.

\. As I got through saying to Bob earlier,
does not fit with the sequence of events as I
ber them, okay?

Q. Sure.

A. Now, that's-- again, I want to do
/thing that I possibly can to give you
rate information, but I don't want to sit here
to give you-- to agree with you about a date
.bout a figure or--

Q. We're not asking you to agree with
thing you're uncomfortable with. What we're
ing for is yoiur best answer to a simple
stion.

A. And the best answer that I have to that
ıple questions is-- the best answer that I have
that simple question is that that does not fit
th the sequence of events that I recall. And so
w I don't know when the deeds were delivered to
fice.

Q. All right.

A. Whether or not they were delivered 1981 or 1980, I don't know that. I've given you my best memory about when I believe they were delivered.

Q. Let me ask you a direct question. You saw, when Mr. Richter was questioning you, deeds that are similar to the deeds you have provided today that are dated February 25, 1981; is that correct?

A. That's correct.

Q. Are we going to find your fingerprints on the original of those documents?

A. I don't know that. I hope you don't because I don't have an independent recollection of having seen these original documents. I didn't know you have the original documents. The first time I've ever known about that is today and so my-- I have given you my best recollection of it. And if these-- if this document came to my office in 1981, and it could have, if it did, then it did, I don't have an independent recollection of it. And that is my-- that is my honest knowledge and belief about the sequence of these things-- of these things.

I would certainly-- I would certainly

e reason to tell it otherwise, as it is-- ause if this were the case, that the deeds were ivered to my office in 1981, as far as I know transaction was agreed upon in 1979, late 1979 1980 and is totally and completely unrelated Drew Fairchild's case. That's what my owledge is and my belief is, so whether--

Q. What was the--

A. -- so whether or not thy're dated in 81 or 1980, I don't think that has a significant ifferenc.

Q. Well, perhaps we'll leave that question o ...e grand jury and limit your testimony to hether or not you sent back those February '81 eeds to Wiley Fairchild's office and instructed hat office to back date those documents one year.

A. I do not have a recollection of having one that. I don't believe I did that, and no one as suggested that I did that until today.

Q. Well, is that what the February 25, 1980 date represents: a one-year back date from when the transaction actually took place?

A. I do not know.

Q. Is it conceivable that if you in fact did that, that you would would have forgotten about it?

A. It's I don't think it's conceivable, I think it's possible. When this transaction occurred, it came to me in the regular routine manner that I accomplished business for Mr. Fairchild with. There was not any reason, to me, to attach any significance or importance to the transaction at that time, and so there's not a way for me to go back and to present to you the detail of it without notes in the file or something to that effect.

Q. Had Wiley Fairchild, to your knowledge, provided a federal judge with royalty leases in the past?

A. Not to my knowledge, he hadn't, but I don't doubt but what he may have.

Q. Did you view this as an arm's length transaction?

A. I did.

Q. Did Wiley Fairchild, to your knowledge, view this as an arm's length transaction?

A. I think he did because I don't know at anytime when Wiley Fairchild thought that there was going to be a gift or anything of that nature involved in this. I think he expectd to be paid for the properties, and he was paid for them.

Q. Do you know at this point that Judge Nixon paid Wiley Fairchild the ninety-five hundred dollars, plus interest, and to this moment Judge Nixon has received at least forty-five thousand dollars in royalty?

A. I did not know that until you have just told me. If that's a fact, that's a fact, but I did not know that.

Q. Did Wiley Fairchild ever articulate to you that these oil leases were a sure thing when Judge Nixon got them?

A. No, he did not. I would have assumed that Wiley Fairchild thought that these were good properties and that they had good prospects of developing or he wouldn't have sold them to Judge Nixon.

Q. Did a year pass between the time the agreement was reached and the time it was officially transacted?

A. It very well could have.

Q. What would have caused the delay?

A. I don't know. In fact, after they reached the agreement to purchase the royalty properties, it was some time-- a very significant e' 'd of time elapsed-- until the deeds were repared.

Q. And until the deeds were prepared, the transaction was not official, it was not legal?

A. Well, it was not legal, no. And the facts were that so much time had elapsed in that period of time that I-- that I had some doubt or some wonder in my mine if it was going to be consummated.

Q. And then you received the royalty deeds and prepared the loans for the promissory notes that Judge Nixon was to sign?

A. Yes.

Q. And in fact you conformed those notes with the February 25th, 1980 deal?

A. Yes, I did.

Q. And you were thereby causing Judge Nixon to pay interest when in fact there was no deal?

A. Well, you know, I did not even consider that or think about that. At the time my thoughts were that if that's the time when the agreement was made and the time that the instrument provided, that that would be the time, that the notes should be the same date for the notes.

Q. Well, the deeds say the royalty deeds were to be effective when the gas or the oil starts to come out of the well.

A. Okay.

Q. So why didn't you simply conform the note to that time?

A. I didn't to that because I was assuming that they made their agreement at an approximate time that approximatd the date of February 25, 1980, and that would be the time that interest would run. In fact, it wasn't even a-- that wasn't even a consideration. It wasn't something I thought about. Usually, what you do if you have a transaction, you conform the notes and the deeds of trust or the deeds, you conform them to the same dates.

Q. Just so we're clear, your testimony here this afternoon is that February 25th, 1980, represents when the deal was actually reached and not the back date that the deal was by one year?

A. No, I didn't. That's not my testimony. You asked me-- I told you that I don't know what the February 25th date is, I have no way to know that. I told you that that's what I believe it was: that it represents the approximate time when

ansaction was agreed upon. And that is an
mption on my part, I don't know that, but that
I look at the sequence of events, as I recall
m, then that's what I believe.

WEINGARTEN:

Bob, do you have any questions.

RICHTER:

(Shakes head.)

. WEINGARTEDN:

Mr. Ingram, the procedure now is for
u to step outside and let the grand jury discuss
ether or not they have further questions?

A. Okay. May I come back in?

. RICHTER:

Wait outside and if there are any
rther questions, we will ask you to come back in.

A. Okay. Can I say something, if I can,
ecause I've been talking to all of you and I have
ot felt like I talked to the grand jury. And I
ant to say to the grand jury, because I'm frankly
urprised that some of the-- some of the terms
ave kind of come this way, I want to say to the
grand jury that I take my legal responsibility
seriously. I have been practicing law for
seventeen years. I think I enjoy a good

reputation in this community for being a fine lawyer, for being a community leader, for being-- I have been-- I have been blessed with the finest family a man can possibly have. And my position here today is one that where, as a lawyer, I have voluntarily come in to try tell you as much information as I know about this transaction.

My posture is that I want to openly, frankly, and forthrightly cooperate in ever respect in this matter so that you can reach your ultimate conclusions about these facts and you can determine what the facts are in it. And so I want you to know that I'm sincere in that and that you have my cooperation in that and that I recognize that I'm an officer of this court, an officer of the state courts, and to that extent I fully intend to do everything that I can to be of help, to help you determine what the facts are and what the conclusions are in this.

The only thing I can do is to give the facts and the conclusions to the best of my memory, the best of my belief, and to the best of what I have determined them to have been, okay?

MR. WEINGARTEN:

Thank you.

A. And I'll take my copies with me and then if I need to come back, I'll be glad to come back.

(Witness leaves the room.)

A JUROR:

Did he ever agree on the fingerprints?

MR. REICHTER:

That's what I-- it reaches a point where you can only ask the question so many times. He is correct that he was surprised by this, and I can understand how he was a little upset. I felt that, practically, the best way to get his best recollection was before he saw what the physical evidence was so that he couldn't deliberately conform it if in fact he wasn't telling the truth, and that's something you have to determine.

But I think he-- it's understandable that he was upset that it was sprung on him because it was clear there had been previous discussions, and for that reason I did give up on it. If, between now and your next sitting, he does not voluntarily provide fingerprint exemplars, we will ask you at the next sitting to order him to provide exmplars unless anyone objects to that.

Does anyone have any questions they

want to ask of Mr. Ingram?

A JUROR:

Are these witnesses aware of some of the questions that y'all are asking them before they get in here?

MR. RICHTER:

Every witness has been intervived at least once by either us or the F.B.I. Generally, obviously, it's pretty much the same as we're asking them now.

Let me say this by the way. Just because it seems as though you might think that we have been giving this a lot of thought and a lot of work, which we have, it doesn't mean that you can't bring 23 new insights into the facts and it shouldn't make you think that you're just going to rely on whatever conclusions we draw. We very much would like the benefit of your collective experience and intelligence and wisdom in solving what the truth was, and so I would hope that you would all actively try to put this together and not depend on the fact that we had a head start on it.

A JUROR:

We heard testimony earlier from the

witnesses that Mr. Ingram had been active in asking for donations to campaigns. How does he-- how does he-- has he obtained the position to be in a position to ask for contributions for some different candidates?

MR. RICHTER:

I believe there was testimony both from him and Wiley Fairchild that he is active politically. If you want us to ask him that, we could. I'm not sure about what--

MR. WEINGARTEN:

I think it's a little far afield from what we're trying to home in on.

MR. REICHTER:

If there's no questions, I will excuse Mr. Ingram.

A JUROR:

I wanted ask about the notary who signed the deeds.

MR RICHTER:

Pardon?

A JUROR:

The notary that signed the deeds--

MR. RICHTER:

Right.

A JUROR:

-- that witnessesed the signature. Could they give us an accurate date to when it was actually done?

MR. RICHTER:

"Skip" Jarvis will testify regarding that.

MR. WEINGARTEN:

You'll hear evidence on that today.

A JUROR:

Okay.

A JUROR:

Mr. Ingram said that Mr. Fairchild, on several different occasions, was really upset with him about, I guess, legal matters they had done for him. I was just wondering, I'm not clear about-- well, Mr. Ingram said Mr. Fairchild approached him about getting Judge Nixon in on a deal. So, if he was so disgusted with him on several different occasions, why would he come to Ingram on this occasion to get Judge Nixon in on a deal? I know he--

MR. RICHTER:

I think his testimony was that there relationship was up and down, that there were times when they're close and times when they're not.

MR. WEINGARTEN:

Remember now, there's been a direct contradiction on that point. Judge Nixon's testified that he was just looking for a deal and Carroll Ingram comes along. He testified, he meaning Carroll Ingram, Judge Nixon specifically said I want a deal with Wiley Fairchild.

THE JUROR:

Right.

MR WEINGARTEN:

Just an example, here-- it is here that we're headed for many inconsistencies in the evidence in this case.

A JUROR:

Let me make that clear. Mr. Wiley testified that Mr. Ingram asked him to back date those; am I correct? I just wanted to--

MR. RICHTER:

So we can excuse him, are there anymore questions for Mr. Ingram?

MR. WEINGARTEN:

Why don't we have one more witness, then break.

CERTIFICATE OF REPORTER

I, Dale N. Milford, CSR, RPR, Official Court Reporter for the United States Special Grand Jury for the Southern District of Mississippi, impaneled as a Grand Jury on February 21, 1984, and the order appointing the said Dale N. Milford, dated February 21, 1984 and filed with the Clerk of the United States District Court for the Southern District of Mississippi, hereby certify that the foregoing 89 pages, and including this page, contain a true and correct transcript of the proceedings had in Special Jury taken by me in Stenotype and later reduced to typewritten form to the best of my skill and ability.

WITNESS MY SIGNATURE AND SEAL this the 6th day of August 1984.

DALE N. MILFORD, CSR, RPR,
Official Reporter and
Notary Public

My Commission Expires April 18, 1986

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

SPECIAL GRAND JURY IMPANELED JULY 18, 1984

TESTIMONY OF PAUL HARVEY "BUD" HOLMES

Friday, July 20, 1984

Hattiesburg, Mississippi

(A QUORUM PRESENT)

EXHIBIT
Respondent's
Exhibit 32

APPEARANCES:

ROBERT I. RICHTER
REID WEINGARTEN
Department of Justice
Public Integrity Section
Washington, D.C.
REPRESENTING THE UNITED STATES

FOREMAN: DAVID MITCHELL WARD, SR.

DEPUTY FOREMAN: DOROTHY MAE CLAYTON

REPORTED BY:

DALE N. MILFORD,
Certified Shorthand Reporter,
Registered Professional Reporter,
Court Reporter For Special Grand Jury
Order Dated February 21, 1984

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 32

THE FOREMAN:

Do you solemnly swear the testimony you're about to give in this cause pending before this grand jury will be the truth, the whole truth and nothing but the truth, so help you God.

THE WITNESS:

I do.

PAUL HARVEY "BUD" HOLMES,

having been first duly sworn, was examined and testified, as follows:

EXAMINATION

BY MR. WEINGARTEN:

Q. Your name, sir?

A. Homes, H-o-l-m-e-s. Paul Harvey "Bud" Holmes.

Q. Spell your last name.

A. Pardon?

Q. Spell your last name, please.

A. Yes, sir. H-o-l-m-e-s, Holmes.

Q. Mr. Holmes, are you an attorney, sir?

A. Yes, sir.

Q. And, even though you're an attorney and I'm sure you understand your rights in the grand jury, it's obligatory that tell them to you.

First of all, I'm Reid Weingarten.

Seated to my left is Robert Richter. We're attorneys with the United States Department of Justice and we, of course, have met before.

A. Right, sir.

Q. The ladies and gentlemen before you are members of the federal grand jury seated here in the Southern District of Mississippi. And you have been subpoenaed to testify before the group.

You, like every other witness, have certain rights and privileges. You have the right not to answer any question the answer to which might tend to incriminate you. You understand that?

A. Yes, sir.

Q. You have the right to an attorney. Your attorney can't be in the room with you, but at any time in the proceeding if you wish to consult with your attorney you are free to do so. Do you understand that?

A. Yes, sir.

Q. Do you have an attorney here with you today?

A. No, sir.

Q. Do you wish to have one?

A. No, sir.

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Q. You understand that anything that a witness says in the grand jury can be used against them in a later proceeding?

A. I understand that.

Q. Are you prepared to proceed?

A. Yes, sir, I am.

Q. When did you graduate from law school?

A. In June of 1958.

Q. And in very summary fashion, what positions or what have you done since then?

A. I have practiced law actively in Hattiesburg, Mississippi, Forrest County, qualified and have practiced in all of the state courts and federal courts, of course, being admitted to the U. S. Supreme Court, held one public office and that was district attorney for the 12th Judicial District that is comprised of Forrest and Perry Counties for the State of Mississippi.

Q. And when were you the district attorney in Forrest County?

A. I was district attorney, sworn in, in January of 1980 and I served the calendar years of 1980, '81, '82 and '83, a four-year term.

Q. And you left office, I take it, in

January '84?

A. Yes, sir, ont+

Q. And since that time have you gone back into private practice?

A. Yes, sir.

Q. And where are your offices?

A. In the Conner Building in Hattiesburg, Mississippi.

Q. Mr. Holmes, do you know an individual named Wiley Fairchild?

A. I do.

Q. And how do you know him, sir?

A. Living in Hattiesburg, Mississippi, everybody knows Mr. Fairchild. First time I recall meeting him was when I represented his brother Coy Fairchild when Coy's son had been killed in an accident up on Highway 49 and Coy employed me to represent him.

Q. Have you ever represented Wiley?

A. Never. Now++ No, sir. I want to say the firm at one time represented Tommy Fairchild in that same disk problem but seemed like Wiley might have had money in the sanding disk.

Q. Do you have any personal business relationship with Wiley?

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A. No, sir. I'm an owner of Bonnie & Clyde's Systems and right now Mr. Fairchild is a financial participant down in New Orleans, I believe, and down in Fort Lauderdale, but I have had no personal contact with or discussed it with him.

Q. Do you know Wiley's son, Drew?

A. Know him vaguely. I don't know him real, real intimately.

Q. Did you ever represent Drew in anything?

A. Never.

Q. Do you know Judge Nixon in Biloxi?

A. Yes, sir.

Q. How do you know him?

A. Back when I was first practicing law, there-- I was in Gulfport, had a case--

Q. Okay.

A. Okay, I met him through professional channels as a lawyer and maintained a friendship with him ever since.

Q. Typically, how frequently would you see him and under what circumstances?

A. See him socially from time to time, you know, just off and on. We're good friends.

Q. Do you know a lawyer or know anyone

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named Porter?

A. Bill Porter. Very well, yes.

Q. And I understand a tragedy occurred-- first of all, identify him.

A. Okay. Bill Porter was an attorney here in Hattiesburg. He had been Bill Colmer's aide or whatever you call it in Wasington and he came back here. He practiced law and just over the years we've just been friends. As a matter of fact, I'm handling all of his stuff now.

Q. Close personal friends?

A. Yes, sir.

Q. What happened in November '83?

A. November the 4th of 1983, Bill Porter and I and Russell Fagan and a boy by the name of Nolan Hill, that worked for Hercules, went fishing down off of Chandeleur Island. That's about 45 miles south of here. We caught fish, started to leave in a seaplane. We took off in the plane after dark. The pilot, in my opinion, banked it too quick and we crashed. We swam for an hour and a half. Bill Porter never came out of the plane.

Q. And he has not been seen since?

A. No, sir.

Q. Presumed dead?

A. Presumed dead. The Coast Guard came out there that night. There were two people on the island, which was Free Mason Island, Mr. Beasley, and he held a light for us while we were taxiing and taking off. And he set there and watched the plane. He said that we turned right and just went in. I thought we were about three hundred feet and hit a oil derrick. But, anyway, we crashed straight into the water.

And we stayed out there about an hour and a half swimming, no life preservers, nothing, and we finally got in. The Coast Guard came out to picked us up, took us to Gretna, Louisiana, where they took us all to the hospital and checked us and administered medical to us and then came home.

The next morning they had search parties out there. Local people got up a search party and the Coast Guard continued the search. And Congressman Trent Lott got into it. Bill, as a matter of fact -- Congressman Lott stayed at Bill Porter's house when he first went to Washington with Mr. Colmer. He took Bill's place for Mr. Colmer and so Congressman Lott called me and we got extra, extra effort out there. And bits and

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pieces of the airplane have been recovered but never found Bill, his body.

Q. Mr. Holmes, the grand jury has heard substantial evidence that August 4th, 1983, a plane landed in Hattiesburg, Mississippi loaded with marijuana, that U. S. Customs followed it in and made certain arrests. When did you become familiar with this incident or when did you hear about it?

A. The news report of it.

Q. The next day?

A. Either that night or the next day, I saw a news report of it.

Q. Would the plane have landed within your jurisdiction when you were district attorney?

A. It did, yes, sir.

Q. And, typically, how would that work in terms of who would handle the case to the courtroom?

A. Well, the normal procedure on something like that is that the arresting body, you know, whichever one it is, whether it be the police department, sheriff's department, highway patrol, whoever, will work up the necessary paper work and have your people in jail. You know, they're

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local.

Normally, this will be the way you do it: you arrest'em, you bring them to jail. We have, in this state, what we call a 48-hour rule. We have to take them before a magistrate, qualify them and see if they have lawyers, then set bond for them.

Q. In this instance, were the people arrested taken to federal-- were they handled federally or by the state at the outset?

A. Okay. It's my understanding, and all I'm going by right now is what I understand, they was brought to the Hattiesburg regional jail and booked in here, in Hattiesburg, and taken from there to Gulfport, Mississippi.

Q. And handled federally?

A. I assume so.

Q. All right. Did it come to your attention that soon after the bust suspicion centered around Drew Fairchild, the airport manager, as a participant in this smuggling effort?

A. I never saw a file on the thing. You know, I can tell you what I heard, rumors, but I never saw a file for about a year.

Q. Let's put the file aside. Soon after

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the bust, did you, as the district attorney, learn that suspicion had centered around Drew as a cooperating participant in this smuggling effort?

A. Yes, sir. I had heard it was Drew and a boy named Bob Royals who were out there. And I had heard that those were the ones that-- I had heard locally and, you know, Hattiesburg people who heard it, that, you know, and they were going to try to make a case on.

Q. As the district attorney, of course, a major smuggling effort within your jurisdiction is of interest and concern to you?

A. Very much, yes.

Q. Did you have a conversation with Drew Fairchild soon after the bust about this subject?

A. Never.

Q. Did Drew come to your office?

A. Yes, sir, after I indicted him.

Q. No, I'm talking about before then.

A. No.

Q. Are you sure?

A. Positive.

Q. Think back. Between the bust and the time you indicted him?

A. No, sir. The reason I say when--

because after you and I talked, I have, and kept-- be frank, I didn't know it, but we have at the district attorney's office a list-- as a matter of fact I brought the thing with me today-- of everybody that comes to the district attorney's office, a daily, you know, calendar. And I went back and searched it, and he came in there on August the, I believe, 27th of 1981, which was after the indictment. That's the only time I've ever seen him.

Q. Okay. That's your testimony? You didn't--

A. Yes, sir.

Q. Okay.

A. No, sir, he just didn't.

Q. So we're clear--

A. He just didn't. I mean, I don't--

Q. All right. I don't want to-- I'll ask one more time. Between the time of the bust on August 4th and the time he was indicted one year later, did you have occasion to meet with him in your office or outside your office?

A. No, sir. Now, let me say this. I have absolutely no recollection of any meeting with him. Bill Porter was with him somewhere or, you know, I

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bumped into-- you know, I fly out of the airport all the time out there. I don't recall seeing him out there. I don't recall. The only independent recollection I ever remember of Drew Fairchild was he called, wanted to make an appointment. He came up to my office and I had Katy Madison, who I turned the case over to her for management, meet with him.

Q. That's after the indictment?

A. That's after the indictment. I have no independent recollection whatsoever of ever seeing him before that.

Q. I will ask-- assuming that's your answer, I will ask one more question and see if that jogs your memory.

Did you ever discuss money with Drew Fairchild prior-- money and the smuggling case prior to the indictment?

A. Never.

Q. Now, before-- now we've jumped ahead of ourselves, I guess.

You testified he, Drew Fairchild, was indicted by the state by your county.

A. By me, yes.

Q. On August 19, 1981?

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A. Yes, sir.

Q. You've also testified that the case originally was handled by the federal government?

A. Yes, that's correct.

Q. What caused the case of Drew Fairchild to come to the state court?

A. All right, sir. Getting ready for a grand jury in Hattiesburg, July grand jury was coming up. And you have two years in which to bring one of these kinds of cases up, otherwise the two-year statute of limitation would run on it. I was talking with Bill Porter one day and I happened to ask him whatever finally happened to Drew up there. I was thinking I had known that Bill had gone up there because we had talked about it. He said they never did anything on him. He further commented to me, he said, "You know," said, "after I went to Jackson half a dozen times for him, he never even paid me, here" you know, for getting him out of all of it. And I told him, I said, "Well, I'm getting ready to work the case up."

And I was curious on the thing so I called George Phillips and asked George what the status of the case was. And George, as I recall, told me that four of the people had come in and cooperated, they hadn't made any kind of arrest on the pilot, that Drew had entered into a plea bargain agreement with them where they were going to give him five years probation and fine, and that Drew had not cooperated and hadn't done what he said he was going to do. And I said, "Well, are you asking me-- are you telling me which way it is about his cooperation?" He said, "All I'm telling you is he's not cooperated with us. Do what you want to do on the thing." I said, "Well, I'm going to present it to the grand jury. You know, hold the case, because I don't want them to think that smugging operations has gone on in Forrest County unchecked and not accounted for."

Q. Is it fair to say at that time you knew that three of the smugglers had been sent to prison?

A. Three or four-- no, my understanding, they were out doing undercover work I thought. I thought they had agreed to do undercover work for the feds was my understanding.

Q. Well, did you know enough to know, of the people arrested at the scene, three had pled guilty and had been sentenced to five years, one,

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an individual by the name of Malone, was coopearating with the government, and what remained was Drew Fairchild and the fugitive pilot?

A. That's true

Q. I mean, did you know that?

A. I didn't know the details, no, sir.

Q. Did you ever seek the case prior to this conversation with George Phillips?

A. No, sir. I never-- it wasn't ever a matter of seeking the case. Let me explain, if I may.

I had as much jurisdiction over the case as the government did. In other words, the government has got a hundred percent jurisdiction to prosecute, indict and charge Drew Fairchild, the pilot. And I have a 100 percent right to charge and indict Drew Fairchild and the other people, you know, that came in. As a matter of practicality, whenever the government tells me that somebody is cooperating or working or layoff of this one or don't indict that one or how about let that one go by the wayside, you know, we're working'em, I don't ever question. I say okay. But I want to make that known to the grand jury. You know, the reason we're not asking for indictment on these is because the federal government asked us not to, they were cooperating, they're working in some sensitive area, which I have no knowledge of, they might be down-- I don't know whether they're south or north, working, you know, under cover. You know, I don't know. But I do know that in this case, when I was going to present the whole case, which I did, to the grand jury, these was the only two people the federal government told me that had not cooperated.

Q. Prior to the conversation with Phillips did you have conversations with agents from the Mississippi Bureau of Narcotics about your desire to get the case?

A. No, sir.

Q. You're sure?

A. Positive. Not before I talked to George Phillips.

Q. All right. If the grand jury indicted Drew in August of '81, when would your conversation with George Phillips have taken place?

A. I'd say proabaly long about in-- I would have to say in June, May or June, somewhere in that general area.

Q. So would that have been almost a year

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after the bust?

A. Yes, sir, I'd say so.

Q. And it's your testimony that prior to that you didn't have repeated calls with agents from MBN asking for the investigataive file and seeking the case?

A. Now, Katy Madison might have. Now, let me say this. I turned the case over to Katy Madison, who is my assistant. Now, if she did, I'm not going to say whether she did or didn't.

Q. No, only speak for yourself.

A. No, sir, I did not. I did not talk to anyone. The only person I remember of, independent, talking to was Eddie Dickey, and that was after he told Mrs. Madisbn that he wasn't coming up for the Forrest County grand jury. I did talk to him down in Gulfport and he came.

Q. How about Kelley?

A. No, sir. Mr. Kelley and I didn't get along so I-- we just never talked.

Q. Is it your testimony that the first time you expressed interest in the case to anyone would have been that conversation with George?

A. No, sir. I'm sure that during this thing, when it came up, I'm sure I talked with

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George back and forth one or two times because he was local. He'd been the county attorney and everybody had known Drew and everybody would have known it was of local interest. And I was talking to George, you know, I'd say three or four, five times a week. You know, just Hattiesburg, and he was up there and I was down there, and "What's going on?" He was interested in some of the cases that he'd worked on and--

Q. Well, other than simply an exchange of information or pleasantries, did you ever express a desire to anyone prior to June of '81 to prosecute the case yourself in Forrest County?

A. I have no independent recollection of it although I-- I'm sure that if anybody asked me, you know, what you're going to do about Wiley Fairchild's boy, I'm sure I said, you know, "I'm going to bust him, get him, he's not going to walk free." I'm sure that would have been an answer as far as being--

Q. Was that your answer, that you didn't want to see him walk free?

A. No, sir, I don't want to see any dope peddler that's in Forrest County or in my county. I think that was my job not to let them, them or anybody else. Just because it was Wiley's boy I sure wasn't going to turn my back on him.

Q. And in addition to the particular bust on August 4th, there was a great deal of suspicion that Drew was involved in other landings as well, was he not?

A. No, they never shared that with me.

Q. You never suspected that Drew was involved in a great deal more than simply the August 4th bust?

A. What George Phillips told me, I'm—— my information came from George. George indicated to me that they thought that Drew, through his brother, had connections down in Florida. You know, that was what they were going to try to do. Drew had connections with another man locally by the name of Roscoe Moore (phonetic) and that they were going to try to set them up, you know, on that. Seemed to me like that I have in my mind whether it was some of the local police department, because the local narcotics boys was the ones over the Hattiesburg airport. Seemed to me like they were telling me about watching a Dossett that was out there, a Birch Dossett (phonetic), you know, that'd been out there. This would just be just

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kind of conversation. We did not get actively involved in the investigations, you know, in trying to make cases down there unless they called us. We did not actively get involved in investigation unless they called upon us.

Q. Try, if you can, as best you can, to distill your purpose in seeking the case from George when and if you actually did that. What was your motivation?

A. I had a grand jury coming up. I had there well, let me back up. I'm giving you right now what I think right now, what would be the chance for it.

Right after I first took office there was an 18-wheeler that came through Forrest County that got busted. They'd been watching him out of Slidell and been watching him for some good length of time. Anyway, he got stopped in Forrest County. The highway patrolman messed up the arrest. No one wanted the case. The government wouldn't take it even though DEA was involved in it. Said no, never mind, because they knew it had a lot of problems with it. The government didn't want it, the Mississippi Bureau of Narcotics did not want it. As a matter of fact, Tom Dial had told Agent

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Kelley not to fool with it whatsoever. You know, right there in the office, and I had to get on the phone and get Mr. Dial to tell him, because they were the ones, only agency, who could take the contraband in. We had to sell stuff and had to destroy the contraband through the Mississippi Bureau of Narcotics, no one else had legal authority.

Q. And you--

A. And so-- so I ended up handling it. I had roughly thirty-five people over in the court. I had letters from the United States attorneys out of New Orleans recommending that we just take a heavy fine and suspend his sentence. I had the United States Attorney here recommend it. I had Dempsey Royals (phonetic), head of the Hattiesburg police department, had Gene Walters (phonetic), the sheriff, I had the Highway Patrol, I had the arresting officers, thirty-five people, and every one of them recommended it. But I knew we was going to catch a lot of flak. All of'em recommended suspended sentence, take-- confiscate the truck and take a four hundred thousand dollar fine, which they did. The court accepted it.

After the court accepted it, they had

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an editorial, there was letters to the editors, there was TV editorials, and I got very sensitive about this type thing.

Q. And were the editorials to the effect that major drugs dealers did not go to prison?

A. The editorials was to the effect that if you had money you could buy your way out.

Q. So that caused you some concern about the handling of the next major drug--

A. This one came in here with Wiley Fairchild's boy out there involved in a drug smuggling operation and people asked me, "What you going to do about Wiley's boy?" You know, people run across you and ask you and I was, I was sensitive about the thing.

Q. So it's your testimony that one of the reasons you wanted the case from the United States Attorney's office was to make sure that a major drug smuggler didn't go free?

A. No, sir, the main thing I was interested in, I just wanted to do my duty down here, you know, in Forrest County, which was to present the facts to the grand jury, you know, and just let them know that people hadn't gone free, that four of the people or ever how many it was--

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I think it was four-- had been indicted, or waived indictment, whatever they did. Anyway, they'd been sentenced to whatever sentence the United States Government thought appropriate. Two of the people have not been sentenced, one of which had been offered a plea bargain agreement and the government said he had renigged on his part of it, and let the grand jury do just what they wanted to do. If they wanted to indict him, fine. If not, then I want y'all to know this district attorney's office is not covering up anything, here's what happened. There's never been a file brought to my office.

But, anyway, it was presented. I thought Capt. Dickey did a good job in presenting it. And he did a good job because they indicted everybody he asked them to indict and they didn't indict those he said he didn't want indicted.]

Q. You mentioned the fact that Porter had not been paid by Drew may have been a factor. Is that--

A. No, sir, I don't know whether he was or not. That was a comment that Bill Porter said, you know, to me. I have no personal knowledge of whether he did or didn't.

Q. All right, you--

A. Later on, later on, Bill, at the courtroom, flashed a check around, not to me but to just around in the courtroom, saying, "He's paid me," or something to that effect.

Q. Well, did the fact that Drew had not paid his lawyer enter into your decision to seek the case on--

A. Not one iota. Not one iota. As far as it being-- as far as joking about it, as far as people joking and picking on Bill Porter, picking and joking about it, it wasn't. As far as me being involved in picking and joking, right here today, under oath, telling you right now it didn't have one iota to do in me presenting the case or not presenting it.

Q. Did we have conversations about this?

A. We most certainly did and I probably very jokingly or, you know, in telling you that that was the thing that triggered-- the thing that I remembered was Bill Porter griping to me about it, and I'm telling you again that's what he did.

Q. But it's your testimony that that didn't affect your decision to call George and try to get the case to Forrest County?

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A. No, sir. I was going to present it anyway. I was very-- as a matter of fact, I'm sure I'd probably already turned it over to Katy Madison and asked her to work it up.

Q. Did you have conversations with Wiley Fairchild prior to the indictment--

A. No.

Q. -- about this case?

A. No, sir.

Q. Did you have conversations with Wiley Fairchild after the indictment about his son's case?

A. No, sir.

Q. Did you call him up after the indictment?

A. No, sir.

Q. Are you sure?

A. I'm positive. I called him after the television blasted him and blasted me. You know, when it came out, I called him up and apologized for getting his name in it and I tried to defend him on the thing and told him I was sorry that I got mad at the TV people and that I didn't think he deserved that kind of treatment whether the guy-- because it wasn't him, it was his boy, and I

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didn't think he ought to have to be dragged through it.

Q. Did you call him immediately after the indictment to advise him that the indictment was coming and tell him how Drew could be released on his own recognizance?

A. No, sir--.

Q. Are you sure?

A. Mr. Weingarten-- excuse me, you're Mr. Richter or Mr. Weingarten?

I promise you, never.

Q. Okay.

A. Never.

Q. Do you recall ever giving the investigative file to Drew Fairchild?

A. No, sir.

Q. Was there a discovery in this case, a turnover of the government's case to the defense?

A. Not that I know of, no, sir, unless Bill Porter got it from Katy. I mean I'm sure that my policy was that whenever anything was done, whenever anything was done like this, that the defense attorney had the sole right to come in and have access to my whole file at anytime. This was my policy rather than going through a lengthy, you

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know, process over at the court. We handle about, say, eleven to fifteen cases a year. We had a standard policy, when any attorney came in, he had a right to sit down, get anything the state had.

Q. Could he take out with him an MBN file?

A. If he came into my office and if Katy gave him the file or if he got the file from the secretary, he very easily could have.

Q. Do you have knowledge of personally handing over to Porter the MBN investigative file in this case, there-

A. No, sir.

Q. -- Fairchild case?

A. No, sir, I have no knowledge of that whatsoever.

Q. I know the answer to the question but I'll ask you it anyway: Did you give the file to Drew Fairchild?

A. Never, no, sir. I have only seen Drew Fairchild one time.

Q. How about Mr. Royals, his co-partner in the airport?

A. No, sir.

Q. Did you ever give the investigative file to him?

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A. Never saw Mr. Royals.

Q. The grand jury has heard some evidence that Drew Fairchild was indicted by your office in August of '81 and pled guilty in Forrest County court in January '82.

A. Yes, sir.

Q. Did he do that pursuant to any sort of plea agreement?

A. Yes, sir.

Q. What was the nature of the agreement?

A. The plea agreement was that if he would cooperate, I would make him the same agreement that the federal government made him. That if he would cooperate with the state and be the state's witness, that I had to get the fellow that was over in Texas back. I needed to have an affidavit signed identifying the man in Texas. And I told Bill that if Drew wanted to come in and cooperate, that I would make him the deal. I lied to Bill. I told Bill that the fellow out in Texas, who'd be Watkins, was willing to come in and testify against Drew, which is not true at all but I told Bill that. Bill called me back and said he would be willing to come over and do anything and cooperate completely and I said fine.

Q. If we pull out the notes of the testimony or the transcript at his plea, will the plea ~~berr~~ the plea agreement be memorialized therein?

A. No, sir. I have it with me. I have the transcript of what Drew pled to.

Q. Okay. Just this question: will the terms of the plea agreement be found in that transcript?

A. Will not. Never has been because, really, I never discussed it with Judge Weldy.

Q. So it was an agreement between you and Porter basically?

A. It was the agreement Bill said he would have Drew ~~plead~~ guilty if I would recommend the same thing that I had already agreed to.

Q. What was the nature of the cooperation that you were bargaining for?

A. That he would sign an affidavit. I ~~havert~~ I have copies of it with me. The State of Texas, who had picked up Watkins, State of Texas picked up Watkins and had him. They said unless we could get someone to identify this man, then they would turn him loose. We had, I believe it was, ninety days. Katy tells me, who's handling the case, that she recommended or thought that

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Drew would be the best one to do it. Now, I asked her, after I talked to you, I said, "Why didn't you see about getting Malone or somebody?" She said the government, here were her words, were acting very weird, you know, about their people. And whatever that means, and this is her explanation, you know, to me, so that was the reasoning she suggested we try to get Drew.

Q. Did you know at the time Malone was a cooperating government witness?

A. No, sir, I hadn't seen any files at that time.

Q. Well, whose decision was it to cut the deal for Drew? Was it yours or Katy's?

A. It was mine. I made'em the same offer the government had offered to corporate.

Q. Well, what was the nature of the cooperation that the United States government was expecting from Drew?

A. It's set out in the agreement. I can read it to you.

Q. Well, is it fair to say that what the United States was expecting was for Drew to go out and make some cases, bring some planes in and have some busts and to go to Florida?

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A. Nothing like that in ther-- there's nothing in the agreement, you know, that spells it out or no one has told me that.

Q. Well, didn't you say you had a coversation with George wherein he expressed to you the sentiment that Drew was to go to Florida and make cases?

A. That's exactly what George told me. That Drew was supposed to make some casess for them.

Q. All that you wanted from Drew was to testify against Watkins, the pilot?

A. That was-- if I could get him over here to testify against Watkins, the pilot, that was all I wanted. There was nothing to keep the government from going ahead and indicting him and prosecuting him. In other words, nothing that I could do that'd stop the government from doing what that wanted to do to him.

Q. I'm not suggesting that there was and I'm not second guessing the way you handled the case. But I am curious as tp why, it was not obvious that you simply could have used Malone, already a cooperating witness, to (a) identify Watkins and (b) testify against Watkins?

A. What you're saying is probably absolutely true but I go back to this. Twenty-twenty is always good hindsight. You know, you can look back. All I understood was that we had to move and move fast, otherwise Texas was going to turn Watkins loose because Watkins was saying he'd never been in Mississippi and that wasn't him and we had the wrong person, never been here. And I understood it was a very, very strong sense of urgency to get somebody to identify him.

Q. Well, let me ask you this. And again I'm not second guessing you. But why didn't you simply pick up the phone to George Phillips and say, George, get Malone down in Texas and make the ID?

A. I asked-- to be frank, it didn't even cross my mind. Said we've got to have somebody to do it, said, well, I wonder if Drew would do it or if Drew would do it maybe I'll let Drew do the same thing the government already offered him. I mean--

Q. Well, you testified before that you had a heightened sensitivity about drug cases because--

A. Right.

Q. -- of all the editorials about the

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smugglers that had walked free when the truck had been stopped in Forrest County.

A. Uh-huh.

Q. And here Drew, pursuant to the agreement, was going to walk free doing similar things: cooperating?

A. He was going to walk free by the government.

Q. Well, I'm not suggesting--

A. He's never been indicted yet by the government. He's never been charged by the government. I'm the only one ever charged him and indicted him.

Q. Well, you're not bound by what the federal government does?

A. No, sir. And the federal government isn't bound by me. I'm not trying to be argumentative but I want the grand jury to understand this. Nothing I did stopped the government from doing everything they wanted to to Drew.

Q. Well, that's true. And nothing the federal government did, vice versa, stopped you?

A. That's correct. And to this good day, what I'm saying, right now, Drew Fairchild can be

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sentenced. I want the grand jury to understand this. He can be sentenced today to a maximum of five years in Mississippi State Penitentiary and he can pay a fine of five thousand dollars. That's this morning. Drew Fairchild, as he is right now, is a convicted felon. A convicted felon. When he came in and pled guilty, he was guilty. And he went, and I've got the plea-- I've got the transcript of-- Judge Weldy did it, and Judge Weldy can sentence him right then to five years in Mississippi State Penitentiary and give him a five thousand dollar fine. It's right in here in the transcript.

Q. Well, the fact is he's not been sentenced as of this date, has he?

A. No, sir. And I've been out of office six months and they still haven't sentenced him.

Q. Again, one more point on the case. Was there any doubt in your mind that had you chosen to proceed to trial against Drew that you could have easily made the case, easily have gotten conviction?

A. Well, he'd already pled guilty.

Q. No, before that. After he was indicted and before you cut the deal, was there any doubt

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in your mind that you could have easily convicted him at trial?

A. I had never seen-- I have never seen the file that the government had.

Q. On the basis of what you heard in the grand jury?

A. On the basis of what I heard, if I could have gotten the co-conspirators in here to testify, which very often-- let say what happens in the state court. Very often you'll start trying to get these people to cut deals like this and they'll say, well, we got it down in Columbia. Or he's on a boat working under cover and we get him, he's down in Florida, we can't do this and we can't do this. I don't know, I did not pursue it that hard because it wasn't-- when he agreed to plead--

Q. Well, but before you entered into the plea agreement, I'm sure you were concerned about the strength of your case just in case the plea had broken down?

A. There-- well, the strength of the case, to be frank, we would have had to have gotten the very people here for the trial that we had subpoenaed that we had coming in here for the 12th

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day of December.

Q. Well, let me ask you this.

A. All right.

Q. Did you not know, by the time you'd indicted Drew, that Drew had made a confession about his participation in the smuggling activity?

A. I'm sure Eddie Dickey told the grand jury that. I don't recall it right now.

Q. But if he had made a confession, why did you have to deal with him?

A. You make there I don't remember. I mean if there

Q. I mean, as a prosecutor, as the prosecutor, as the chief prosecutor for Forrest County, obviously, if a defendant has confessed, its not a particularly difficult thing to convict him once you go to court. Is that a fair statement?

A. If you have a confession and-- no, sir, I have lost some cases where you had a confession and they come in and say, well, they hadn't. But, as a rule, if you have a confession, you can get a conviction. In this case I was interested in pursuing Watkins.

Q. Well, who posed the greater threat to

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Forrest County, the airport manager there on the ground in the county or the pilot who flew in obviously with the intention of dropping off the marijuana and flying out?

A. Ther- well, I'm sure that there's no doubt about it. Here, locally, you'd have to say the airport manger would have been a greater threat. Now, whether or not the court would have accepted the recommendation, you know, I do not know.

Q. I'm not following that.

A. Okay. What I'm saying, and you've got to reason, you've got to understand, that the court tells Drew at the time that he does not have to accept the recommendation of anything the state makes, itr- Judge Weldy did not have to accept the state's recommendation on the thing.

Q. As a rule?

A. All I was going to do and what I told Bill Porter I'd do, I would recommend that we do for Drew exactly what the federal government offered to do for him. That was it.

Q. Why did you feel obliged to follow what the federal government had recommended?

A. Because I wanted to get the man in

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Texas held. And I wanted his cooperation and I wanted help, and he gave it to me and he signed the affidavit. On the strength of the affidavit we were able to hold the man in Texas before he jumped bond. And he'd agreed to testify for us. We have-- and Drew's the one that can testify for us.

Q. Not to belabor the point, did you ever make an effort to get Malone to do just that?

A. No, I never did.

Q. Did Kay to your knowledge?

A. My understanding, she talked with people, and I have some notes of correspondence where she talked to them, and she said, quote, unquote: they acted real weird.

Q. Do you have any--

A. -- about--

Q. Do you have any doubt at all that if you'd picked up the phone and called Phillips and said, George, give me your informant to make my case, that he would have hesitated to do that?

A. I say this. They don't have Watkins right now. And, you know, we've been asking and I got a ton of letters where we've written the federal government for them to locate Watkins and

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help us and they hadn't found him yet.

Q. Well, he's a fugitive?

A. Well, he might be. We're the only ones that's ever been able to find him because it was through my indictment that we were the ones that got him in Texas and then we're the ones who ran him down, down there in Florida, so I'm-- I don't know, but I did not-- I'd say if George had him available, he would do it. We never-- when you're handling the volume of cases that you handle, you generally don't spend just hours and hours and hours on, you know, one particular case. You got a witness that can make the case for you, then you go ahead and do it. You compromise them all the time.

Q. Did you have suspicions that Royals was involved in this smuggling effort?

A. Yes, sir, according to the investigation, that he was out there with them.

Q. Was Drew asked to cooperate against Royals?

A. I never talked to Drew.

Q. Well, as part of the deal why wasn't it made a part of the bargain that Drew testify as to all information he may have about the smuggling?

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A. Mr. Eddie Dickey-- Capt. Eddie Dickey is the one who represented, you know, the Bureau of Narcotics before the grand jury and he presented those people that he felt like they could make the case on. I did not go into, you know, what about this, what about this, what about that and what about the other. For all I know, a lot of times in these cases you have a Bob Royals who might be the CI. For instance, in the reports I get, all I hear is CI, CI, CI all the time, and many times people like that are the CI. When they don't ask them to make a case on somebody, you know, somebody like that, I generally don't press them to say why aren't you wanting to do this one, that one, and the other one. Now, there's no reason why he couldn't be. You know, certainly the government could.

Q. Is your answer to why you didn't insist that Drew cooperate far more fully was because the agent didn't ask for the cooperation?

A. I didn't go, really, any further into it. I just asked them to come and present their case they had on the bust in Hattiesburg.

Q. Well, whose decision was it to cut the deal with Porter?

A. Me.

Q. Was it MBN's recommendatin that you follow that course?

A. No, sir. I don't remember discussing it with them.

Q. And was it your--

A. Let me say this about the deal. The only deal is that he'd be-- he'd plead guilty.

Q. And you would recommend probation?

A. And I would recommend exactly what the government had recommended. That's all. And I'll be frank. I thought if the government thought-- was going to do it, I didn't see anything wrong with my doing it.

Q. You saw no difference in the extent of Drew's cooperation that was anticipated by the United States government and the cooperation that you were asking for?

A. No, sir, cooperation is cooperation to me. I did not--

Q. You saw no difference in Drew Fairchild's going out and making cases and getting busts at airports and what you were asking for, testifying against the pilot? You saw no difference in that?

A. Well, sure, you can-- you know, we can sit right here and rehash any case and the way it was handled at any time. And I can look back and I can say right now if I had it to do over again, yes, I'd handle it differently. At the time, that was the way I thought-- the best way to handle it. It looked to me like the logical way to handle it and that was my decision. I look black at practically every case I've ever tried and if I had it to do over again I'd say I never would have handled it that way. If I had to-- for instance, if I had the four hundred thousand dollar drug bust, I would try it even though I lost it but I wouldn't take the criticism I had to take.

Q. Right.

A. This case right here, I promise you I would not have let the government grab it and run off because of Wiley Fairchild's name, everybody knows who it is. And you know that as soon as you you get involved with somebody with a name like that you're going to be accused of being bought off.

Q. All right.

A. I mean it doesn't matter what happenes, you're always going to be accused of it so you handle those different. I tried not to handle it that way. I tried to handle it the way I thought was the best. I tried not to get way out in left field on it.

Q. Okay, moving along, there's-- was the case sent to files by you at any point?

A. Was what?

Q. Was the Drew Fairchild case sent to files by you at any point?

A. Yes, sir, in December I believe.

Q. What does that mean when you send a case to files?

A. Means nothing. It's removed from the active to the inactive side of the docket.

Q. That means it will not be prosecuted until it's returned to files?

A. That's correct. In other words, what happens is as long as the case is on the active docket, every time a case is called up, each term of court, then you have to continue it for that term. We have a thing called two-hundred-and-seventy-day rule in this state in which you have two hundred and seventy days within which to bring a person to trial. Now, when you have the two hundred sevent days running, then if you let two

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hundred and seventy days run you cannot then go forward with the case.

In the state of Mississippi, after you accept a plea of guilty, Rule 6 says you have a reasonable time quote, unquote, to sentence. And it states there's one case and this is the way that they do it. Whenever you're not ready to sentence or if your're waiting on testimony or something like that, if you would pass it to the file then it becomes inactive.

Q. All right.

A. It stops these things from running. Then you can bring it back. I've got one case where this happened. Five years later it was reactivated and the man was sentenced?

Q. And so--

A. And the Suprem Court upheld it and they tried another one and it went all the way to the United States Supreme Court and they affirmed it. So I thought that was the best way to do it. I just had a case where--

Q. Okay. You--

A. Okay, excuse me.

Q. Summarizing, what you did after the guilty plea was you were waiting to use Drew

Fairchild as a witness against the pilot?

A. That's right.

Q. The pilot was a futitive. So about one year later, in December of '82, you passed the case to files, the inactive list, and anticipated bringing it back sometime in the future--

A. As soon as I caught him, that's right--

Q. -- for sentencing?

A. -- and got him up here.

Q. An order was signed by the Circuit Judge Weldy; was it drafted by you or someone in your office?

A. Someone in my office.

Q. Make this Grand Jury Exhibit 11. In this order-- did you personally have this?

A. No.

Q. Did you check it?

A. Probably.

Q. Well, it represents that the state would furnish-- show that the co-defendant was a pilot-- and I suppose you're talking about Watkins?

A. Yes, sir.

Q. -- which was actually flying the aircraft involved with controled substance and would

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further show the court that Drew Fairchild has agreed to cooperate with the State of Mississippi in its efforts to prosecute the pilot and testify, if necessary; and further, the State of Mississippi has been made aware that he has cooperated with the Mississippi Bureau of Narcotics and, supposedly, the federal government concerning this investigation?

A. That's what Drew claimed he did the day he came in the office.

Q. But you had known-- you knew facts to the contrary, supposedly?

A. That's correct.

Q. So how could this be put in a document that was to be signed by the court?

A. Because that's what Drew contended. Drew was my witness at this point.

Q. Did Drew--

A. After Drew pled guilty, after he pled guilty, just like my agreement was, Drew then became my witness in the case. We had Watkins down in Florida, we were trying to extradite him. I just got through with a case in Tennessee where I could not get people-- who flew into Hattiesburg-- I could not get them extradited and

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I was in the process of an extradition fight. I said I'm going to pass the durn thing to file until I can get the-- get Watkins up here and I'll reactivate it at that point.

Q. Mr. Holmes, this document that your office provided for the court represented that Drew Fairchild cooperated with the federal government.

A. Supposedly. I'm not saying he did. He alleged, he says he did, that's what I said.

Q. (Reading) Has been made aware that he has cooperated with the Mississppi Bureau of Narcotics?

A. That's right, what Eddie Dickey said.

Q. That he cooperated?

A. Right.

Q. Are you sure about that?

A. That's my understanding on the thing, that he cooperated with them. Let me back up. It's my understanding on the thing that after-- after Drew had pled guilty on the thing, that I believe that he had talked with them I believe is what Bill Porter told me. I don't know about that and, I'll be frank, I don't know where the words came from. But it was my understanding after he had pled guilty that he was our witness and I really wasn't--

Q. Let me ask you this. After the case was in your hands, did you have a conversation with Wiley Fairchild about it?

A. In my hands? Well, I know I talked to him that night when the TV got on him.

Q. Any other occasion?

A. Not that I recall, no, sir.

Q. Are you sure about that?

A. I'm positive.

Q. Did you ever ask Wiley Fairchild for money?

A. Never.

Q. Did you ever make such a hint, for him to--

A. Never.

Q. -- to Wiley Fairchild?

A. No, sir.

Q. Did you ever visit Wiley Fairchild's place of business with the judge who would one day be the sentencing judge in the Drew Fairchild case?

A. I most certainly did.

Q. What caused that, sir?

A. What?

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Q. What caused that visit?

A. All right. Getting ready to leave office, I had several controversial cases I was wanting to get off the docket. One was the Don Horn case, which went to Gulport and we tried it for a week and--

Q. All right, let's limit it to this case.

A. All right. Okay. Now-- and I wanted to get this case off the docket. The fellow had jumped bond again. We'd already forfeited the bond on him. We had the case set and we already had witnesses issued, already had everybody coming in on the trial. Watkins, on the 12th of December, the man jumps. We don't get him in here. I'm wanting to clear it. Whenever I leave office, I'm going to clear everything.

Q. So what prevented you from simply calling Drew Fairchild up and say sentence him?

A. He did not have a lawyer. Oh, you mean why didn't I?

Q. Yes.

A. Because I had an agreement that after he testified is when I would sentence him.

Q. Okay. So what caused you to visit with Wiley and take the judge with you?

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A. All right, sir. Called Carroll Ingram, it was my understanding that Carrol was speaking for Drew. Now, I called Carroll and asked him and he said that he did not represent Drew. He said, "What you ought to do is talk to Wiley on the thing." Now, that's my recollection on the thing.

Q. Carrol said that to you?

A. That's my understanding on it. That's the way I remember it. So I thought Carroll told me that he would see me in the morning. To be frank, it would look very inappropriate, I thought, and, to be frank, I didn't want to go out there by myself. For the very reason right here, the questions you're asking, I wanted someone to go with me. So I called up the judge that morning and I said, "Judge, you mind going somewhere with me? I'm going out and explain to Mr. Fairchild something about the case."

Q. You were concerned--

A. See, I--

Q. You were concerned about the propriety of visiting Wiley yourself so you brought the judge who would sentence his son out with you?

A. Yes, sir. That's exactly what I did. That's exactly what I did.

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Q. All right. Please explain what happened when you arrived.

A. All right, arrived out there. I -- arrived, he and his brother were in the office. Walked in there and told him. I said, "Bill Porter's dead, I'm the only living person that knows what the agreement was. I believe it was that we recommend exactly what the government had agreed to, you know, with your boy. I am ready, willing and able to take the criticism from the press because that was my agreement with Bill. Now, I'm getting ready to leave office, you know, now, in a few days, and before I leave office I am willing to be the one to go up and make the recommendation. I don't know what Judge McKenzie will do or not do," -- Judge McKenzie never opened his mouth -- I said, "but before I leave office, I want my conscience clear that I have done everything that I said I will do."

Q. All right. Mr. Holmes, I hate to break at this point but we promised the grand jury that we would conclude today at 12:00, so do me one favor. Step outside and let us chat amongst ourselves and we'll let you know what the decision of the grand jury is.

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(WITNESS LEAVES ROOM)

(JURORS POSE QUESTIONS TO BE ASKED OF WITNESS)

(WITNESS RETURNS TO ROOM)

MR. WEINGARTEN:

Q. Mr. Holmes, as I advised you, we had represented to the grand jury that we would adjurn today at noon and it's the grand jury's wish that we do exactly that. We're scheduled to recommence the proceedings September 5th, which is a Wednesday, at 9:30. It's the grand jury's wish that you come back at that time to complete your testimony. Obviously, if you have a conflict at that time we will try to accomodate your schedule, but that is the wish. And we'll not send another subpoena and we'd just like an acknowledgment from you on the record that that's okay with you.

A. I will very gladly, humbly, and anxiously come back.

Q. Thank you. Did you bring any records you want to make part of the grand jury record at this time?

A. I brought-- Yes, well, I brought all the rules of the court.

Q. Those we don't need.

A. Okay. I brought the laws. I've got

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the only thing right here in the record, the only place where Drew, you know, ever came. I've got copies there that were taken from the daily--

Q. Just for the record, what date is that?

A. Let me look. I marked it in here. Drew Fairchild, August 27th, 1981.

Q. If you would, just bring your calendar back next time and we will see you at 9:30 on September 5th, which is Wednesday, here in this courthouse.

A. When now?

Q. Wednesday, September 5th.

A. September the 5th, all right, sir.

Q. Okay?

A. Appreciate your kindness and--

Q. We'll see you then.

A. Good. It'd be inappropriate for me to thank the grand jury for their attention, so I will tell you that if that would be appropriate I thank you.

(WITNESS LEAVES ROOM)

(ADJOURNED TO 9:30 A.M., WEDNESDAY, SEPT. 5, 1984)

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CERTIFICATE OF COURT REPORTER

I, Dale N. Milford, CSR, RPR, Official Court Reporter for the United States Special Grand Jury for the Southern District of Mississippi, impaneled as a Special Grand Jury on July 18, 1984, and the order appointing the said Dale N. Milford, dated February 21, 1984 and filed with the Clerk of the United States District Court for the Southern District of Mississippi, hereby certify that the foregoing 55 pages, and including this page, contain a true and correct transcript of the proceedings had in Special Grand Jury taken by me in Stenotype and later reduced to typewritten form to the best of my skill and ability.

WITNESS MY SIGNATURE AND SEAL this the 15th day of August 1984.

Dale N. Milford

DALE N. MILFORD, CSR, RPR,
Official Reporter and
Notary Public

My Commission Expires April 18, 1986

W. R. FAIRCHILD CONSTRUCTION COMPANY LTD. - OIL DIVISIO

FAIRCHILD - WINDHAM EXPLORATION COMPANY

P.O. Box 1857 Hattiesburg, MS 39401 601 544-115

ILEY FAIRCHILD
PARTNER AND
GENERAL MANAGER
ODNEY FAIRCHILD
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OHNNIE R FAIRCHILD
LAND MANAGER
NN S. JONES
ADMINISTRATIVE
ASSISTANT
CHAEL B MOORE
ASSISTANT MANAGER

EXHIBIT
Respondent's
Exhibit 32A

July 16, 1984

TO WHOM IT MAY CONCERN:

The following figures are based on original costs of the mineral interest in the following three wells in which Judge Walter L. Nixon bought an interest:

Wilkie Gas Unit, Mobile County, Alabama

Bought 3 overriding royalty acres or 1.8% or 1/55th of what WRFCC owns.
Profit margin of 23.43 times cost of acreage or 2,343% profit.

L. D. Ross Well, Covington County, Mississippi

Bought 5 overriding royalty acres or 1.4% or 1/71st of what F-W owns.
Profit margin of 13.29 times cost of acreage or 1,329% profit.

Rogers 28-11 Well, Marion County, Mississippi

Bought 3 overriding royalty acres or 4.46% or 1/22nd of what WRFCC owns.
Profit margin of 83.13 times cost of acreage or 8,313% profit.

Note that Wiley Fairchild is a minority interest owner in WRFCC and F-W.

Respectfully,

Lynn S. Jones
Administrative Assistant
Oil Division

LSJ

cc: Billy J. Riley
Comptroller

United States Senate
EVIDENTIARY HEARINGS
RESPO[illegible]DENT'S EXHIBIT 32A

EXHIBIT
Respondent's
Exhibit 33

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

SPECIAL GRAND JURY IMPANELED JULY 18, 1984
(A QUORUM PRESENT)

Transcript of the tesimony of MR. BUD HOLMES:
Taken on Wednesday, September 5, 1984

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 33

A-P-P-E-A-R-A-N-C-E-S:

REID WEINGARTEN
U.S. Attorney
Public Integrity Section
U.S. Department of Justice
Washington, D.C. 20530

FOREMAN: DAVID MITCHELL WARD, SR.

DEPUTY FOREMAN: DOROTHY MAE CLAYTON

REPORTED BY:

WILLIAM M. HOPPOCK
Official Reporter per Order
Dated: August 31, 1984

BUD HOLMES

Having been called to testify and
having first been duly sworn:
testified as follows:

EXAMINATION

BY MR. WEINGARTEN:

Good morning, Mr. Holmes.

MR. HOLMES:

Good morning.

MR. WEINGARTEN:

I am Reid Weingarten. I have read your testimony of the last appearance that you had before the Grand Jury on July the 20th, and I have reviewed your testimony.

I don't know if it's necessary, but I am going to again advise you of your rights.

You have the right not to answer any question which might incriminate you. You have the right to an attorney. Your attorney can't be in the Grand Jury Room with you, but you may confer with him at any time.

You also must understand that any testimony that you gave may be used against you in another proceeding.

Do you understand your rights?

MR. HOLMES:

Yes.

MR. WEINGARTEN:

You will be happy to know that upon the review of your testimony, we don't have too much more to cover.

I think at the conclusion of last time, you were just discussing a visit that you had with Wiley Fairchild on the eve of your departure from office.

Just to get back to that, why don't you begin from the beginning and describe the circumstances -- why you would go and what happened once you got there. All right?

A. I was about to leave office and I had about four controversial cases that I was trying to get rid of.

One was a case that went down to Biloxi, Mississipp. It was tried for a week and that involved the football player that was accused of raping a number of people here in Hattiesburg. That was quite controversial, and we went down there and tried that for a week and got rid of that.

We had a tax assessor that we had here that had been indicted. Then we also had --

Q. What it comes down to is that you wanted to terminate some of these so that --

A. Right. When I took office, I had about 14 very controversial cases that were left in my lap. I just wanted to leave a clean slate, and this was one of them.

Bill Porter was dead. Drew didn't have a lawyer that I could call.

Carroll told me that he could not speak for Drew. He came back and I said fine. And he then suggested that I go talk to Wiley, the daddy.

Q. Carroll did?

A. That's my recollection. That's my recollection. Carroll said that, "What you ought to do is talk to Wiley about that."

Q. Have you talked with Carroll about this lately?

A. Yes.

Q. What did Carroll --

A. Carroll said that he didn't remember telling me that. I said, "Well, that's the way that I remember it." You know, that's my testimony.

Q. Did he say to take Judge McKenzie out there?

A. No, sir. That was my decision.

Q. All right. Tell me what happened with Judge McKenzie. What did he do.

A. All right. So I'm going out there and I called -- Carroll set the meeting up or I called, one of the two. Anyway, Mr. Fairchild is an early riser and we set this for like 7:00 o'clock in the morning. Seven or 7:30. Something like that.

So he told me to come out there, you know, he would meet with me.

So, I got up and I think I called Judge McKenzie that morning and asked if he would ride out there with me.

Q. Did you tell him before you picked him up where he was going?

A. Probably, but I can't swear to it, you know. I probably, I probably did. I know I told him on the way out there if not before. You know, I called him up and and asked him if he wanted to go somewhere with me. I could have done that, but I don't recall.

Q. Is there something unusual about just picking up the judge at 6:00 o'clock in the morning or 6:30 in the morning and just saying, "let's take a ride"?

A. I think it would seem -- well, if you took it out context it would seem unusual, yes, sir; but with Judge McKenzie -- the way I've known him all my life -- I wouldn't think it was strange.

Q. Are you good friends?

A. Yes, sir. Very good.

Q. All right. What happened when you got out there?

A. We walked in and Mr. Fairchild was sitting there with his brother and I believe he sat down -- or we sat down -- I guess they were sitting there. Whether they got coffee or not -- that would seem to be the normal thing to do -- and I told him, "Mr. Fairchild, I want to get rid of the case on Drew. Bill Porter had an agreement, and

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I'm getting ready to leave office."

And I said, "My agreement with Bill was that I would ask the Court to sentence Drew after he testified against Watkins." That was my agreement.

Q. Watkins, the pilot?

A. Watkins the pilot. And I said at that point that I was going to recommend the same thing to the Federal government, which was a fine and 5 years probation and that quite frankly, I would like to get the thing disposed of.

He and his brother sat there and looked at each other and talked and said, "No, let's just leave it like it is."

I said, "That's fine with me. My conscious is clear, because I had that agreement with Bill Porter and Porter is dead, and I just wanted to relay that to you and if you would pass that on to Drew I would appreciate it."

Q. Why did you want Judge McKenzie there?

A. To be frank with you, I just wanted someone else to go along.

Q. Well, Judge McKenzie was going to be the judge that was going to sentence Drew. I mean, clearly that had to have been in your mind.

A. No. Not at the time it didn't really cross my mind that much. Hattiesburg is a small town, everybody knows this, and Judge McKenzie, I think that --

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Q. But surely you could have taken a court reporter, you could have taken another lawyer, you could have taken another friend, but instead you picked the judge that was going to sentence Drew. Why?

A. Well, at the time I didn't think anything about it. You know, looking back -- like any time that you do something hindsight is always 20/20 -- yeah, sure, looking back you could say that would look bad or this would look bad and in looking at it in retrospect, you know, any time you look back on something you done later, you can say, "Well, if I had to do it over again, I wouldn't do it that way." That's just the way it went.

Q. Well, I'm not trying to argue with you --

A. No. No. I mean you make an appointment real, real early in the morning, you know, the judge and the district attorney slipping in and slipping out of Wiley Fairchild's, and Wiley Fairchild running a big business and he's got a lot of money and a lot of wealth, you know, and his son has got a case on the docket, sure you can think something's up. Nothing happened out there like that.

Q. What did McKenzie do there?

A. What?

Q. What did he do there? What was his role?

A. To my knowledge he might have said "hello" and

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and "goodbye" and that's about it. To be frank with you, I don't remember him ever making a comment.

Q. All right. Not to belabor the point, but why did you select the judge as opposed to another lawyer or another friend?

A. Just happened to think that if Mr. Fairchild had any questions of me, you know, about it, that here will be the judge right there.

Sure, it would have been more proper to have the judge sitting on the Bench in open court for everybody to see. Sure if that was the situation, then that would certainly have been the way to open it up with a court reporter sitting there for a record for the whole world to see.

Q. Why didn't you do that?

A. What?

Q. Why didn't you do that?

A. What? Go out there?

Q. No. Why didn't you do what you just said.

A. Why did I or why didn't I?

Q. Why didn't you do what you just said?

A. It didn't really cross my mind. There wasn't that much to it. I was just trying to get the thing over with and I thought that Mr. Fairchild would say"Sure, that's fine. I'll talk to Drew and get him to do it."

I'd much rather that he had a lawyer, but Bill Porter isn't living, and that's who I had talked to about this -- Bill Porter -- about getting rid of it.

Q. Did Wiley Fairchild threaten to go to the press with this?

A. Not to me.

Q. Have you ever heard that?

A. No.

Q. Are you sure?

A. Positive.

Q. Did he attempt to put the case back into the Federal system?

A. Not to my knowledge.

Q. You never heard that?

A. No, sir.

Q. What did his brother have to say during this whole proceeding?

A. About like Judge McKenzie did. Hello and goodbye.

Q. So you and Wiley did all the talking?

A. I don't remember Mr. Fairchild saying much. We weren't in there but about 5 or 10 minutes. Only thing I remember is him saying to just leave it alone and leave it like it is. I said fine, that my conscious was clear. I was leaving office and the next district attorney might not recommend that, and if he didn't, my conscious was clear. I had an agreement with Bill Porter and I was the only living human left that knew what the agreement was.

Q. Did you ever communicate with Drew about this?

A. No.

Q. I mean, were you viewing Wiley as Drew's lawyer?

A. Pardon?

Q. Were you looking basically at Wiley as being Drew's lawyer or representative?

A. When I went out there, I was under the impression that Carroll Ingram had told me that if I wanted to get this cleared up and get the case disposed of, I needed to talk with Wiley. I didn't know what the makeup was there.

I thought that Carroll could speak for Drew, you know, that was my understanding that after Bill died, I assumed that Carroll would step in there.

Q. Did Judge McKenzie, after the meeting took place, express any displeasure that you put him in that position?

A. Not to me. It seemed like we laughed one time about a rumor that he had heard that he and I were out there and somebody brought us $200 worth of shrimp or something like that.

Q. At 7:00 o'clock in the morning?

A. He joked and wanted to know where his shrimp was and I told him, "Well, I guess you ate them all." But I remember that, but I don't remember anything else.

Q. He didn't feel that you had put him on the spot or anything?

A. If he did, he didn't express it.

Q. The last time that you testified you mentioned that you heard that Royal's was involved in that smuggling as well.

A. According to the reports -- in the bureau reports -- he was one of the ones that was mentioned throughout the report.

Q. How come he was not prosecuted?

A. Mike Tyson, who is with the bureau, I asked Mike the other day. Mike said that he did not think that they had enough evidence to ask for an indictment.

Q. Was there any attempt to get Drew to testify against Royals?

A. If there was I didn't know it.

Q. Why wouldn't you make that a condition of his cooperation?

A. Well, see, we were just looking at Watkins and the people who had been indicted. Normally in State court -- which is different from Federal -- we indict or ask for indictment -- generally on people that the officers in charge of the investigation ask for. Those are the ones.

We don't generally get a set of facts and then start in, you know, start trying to second guess them. They came in and said, "Here's the ones we want."

One of the reasons for that is that many, many times they have confidential informants, and I don't know who they are or don't want to know.

Q. So, your position is that you trust the officials that are making the investigation --

A. They bring in the information and say, "That's the one that we want to go for." That's what we do for them a lot of times. If I go out there and get one of their confidential informants -- they don't want to blow their covers -- so they just come in and say, "Here's what we want indictments on." And we say, "Fine."

Q. I think you testified last time you were here and I just want to make sure. You never gave an MBN file to Drew.

A. Correct.

Q. Did you ever give an MBN file to Porter?

A. Let me explain our procedure.

Q. Just answer the question.

A. The answer is no. He very easily could have gotten it out of my file or out of my office. I had a standard policy that anybody -- any lawyer -- that comes in the office is welcome to look through the file and make

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copies of anything in the file. He could have very easily have come in, gotten the file out through discovery --

Q. But it wouldn't have been discovery if he had pled guilty, right?

A. Well, he still could have -- well, he pled "not guilty" originally. See, he pled "not guilty" and his indictment wasn't until January that he pled guilty.

Q. Frankly, when we looked through the file we didn't see any discovery, we don't see any --

A. You go through the rest of the file -- let me explain this to you. We handle from 1200 to 1500 cases a year there. All right. With 1200 to 1500 cases, you don't have time to process that with one district attorney and two assistants to go to the court and go through each and every one of those things.

I had a standard policy that on every case that we had, when the attorney comes in, then he would have access to our file.

Q. What if the file contained information about confidential informants?

A. I don't remember having that. I don't remember having a file that named the confidential informants.

Q. Well, surely within the context of the statement, the defendant often times could figure out who the C.I. would be, and just showing the statement could compromise the confidential informant.

A. What you're saying could be exactly correct, nevertheless, we had a standard policy and that's the way that we did it.

Q. All right. Let me make sure that certain other things are clear: You testified last time that Drew never came in to see you before his indictment in the State court.

A. To my knowledge I don't remember him coming in. He might have come in with Bill Porter one time when he came in to talk about the case, but I don't remember seeing him but the one time.

Q. I think you testified last time that you never talked to anybody with MBN about the Fairchild case until you called George Phillips about wanting the case transferred to you.

A. They were in and out -- let me explain. They were in and out of the office a lot and we would sit down and discuss a number of different cases going on, and if I had an independent discussion about this case with anybody from the Bureau of Narcotics, I don't have any recollection of it.

Q. All right.

A. It's very possible I could have sat down there and we could have been talking about a drug bust in Richland or talking about some other cases that we were working on and in the context of the conversation this somehow could have come up, but I don't remember sitting down and talking with them and the idea of what type of evidence we have or what have you.

Q. Well, let me read to you what you said the last time, and for the record, it's page 17.

QUESTION: Prior to the conversation with Phillips, did you have conversations with agents of the Mississippi Bureau of Narcotics about your desire to get the case (and I'm referring to the Fairchild case)?

ANSWER: No, sir.

QUESTION: You are sure?

ANSWER: Positive. Not before I talked with George Phillips.

QUESTION: All right. The Grand Jury indicted Drew in August of '81. When would your conversation with George Phillips have taken place?

ANSWER: I would say along about -- I would have to say in June, May or June, somewhere in that area.

Do you confirm that testimony?

A. I would say that -- now, I probably had some "street talk" so to speak with different people about it, but never any official inquiry on my part that I recall.

Q. Okay.

A. Glenn might have or Katy might have, but I don't recall.

Q. Okay. You testified last time as well that you never spoke with Wiley immediately after you returned the indictment.

A. Never. Positive of that.

Q. Then there is one question I had about conversations you had with Porter. On page 14, last time I asked you about why the case of Drew Fairchild was brought to the State court, and you answered:

> All right. We were getting ready for a Grand Jury in Hattiesburg -- the July Grand Jury was coming up -- and we had two years in which to bring one of these kinds of cases up, otherwise the two-year statute of limitations would run on it. I was talking with Bill Porter one day, and I happened to ask him, "Whatever finally happened to Drew up there? I was thinking that I would know and Bill would know because we had talked about that.
>
> He said he never did anything on him. He further commented to me, he said, "You know, I went up to Jackson a half a dozen times

for him and he never did even pay me for getting him out of all of this."

And I said, "Well, I'm getting ready to work the case up."

Did that conversation take place before or after your call to George Phillips? Do you remember?

A. I don't. I would just be speculating.

Q. Well, you mentioned to Porter that you were working the case up.

A. I was getting ready to present it to the Grand Jury and I was going to tell them, "We had a drug bust out there, the Federal Government is handling it, and here is what they have done here."

Q. All right. Is it your recollection then -- I mean -- how does that fit in with your call to George where you told him that you were taking over?

A. My recollection on that is something like I called George and said, "George, what did you ever do with these cases that we had down here in Hattiesburg."

Now, if I had to reconstruct everything, you know, it's been three years ago, but normally it would have been on something like that, I would have something to the effect of:"Well, 4 of them copped out -- or three or how ever many there was -- and there has never been anything on Drew."

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We had something worked out on Drew, but he hadn't cooperated. There wasn't any reason that -- well, I asked him if there wasn't any reason that I should take this to the Grand Jury. He said, "No. That's fine with me. As far as I'm concerned, he hasn't cooperated."

That would have been about the way I think the conversation would have gone.

Q. Okay.

A. Because I always tried to cooperate with the Feds every time.

Q. Did you have a conversation with George Phillips about this before the conversation that you are talking about?

A. Probably.

Q. With this case?

A. You see, George is from Hattiesburg.

Q. So is the Grand Jury. Let me ask the question. Before you had the case and while it was still in the Federal Government and before the plea agreement was reached, did you have conversations with George about the case?

A. I had to have. I think my answer has to be probably yes. I don't have any times or dates or specifics, but it would --

Q. Did you ever try to encourage him as to how the case should be handled?

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A. No.

Q. Did you have any input into the memo of understanding that the Feds reached with Drew.

A. No. No. No.

Q. We had some conversations last time about Grand Jury Exhibit 11, and I think you actually provided it for us, which is the order to place the case in the file. I don't recall who actually drafted that. Can you help me some more with that?

A. Glenn White.

Q. Glenn White did? I think we had conversations last time about the portion about where it says here, "The State will further show that the co-defendant was the pilot that was actually flying the aircraft involved and will further show the Court that Drew Fairchild has agreed to cooperate with the State of Mississippi in the prosecution of the pilot and will testify if necessary; and further that the State of Mississippi has been made aware that Drew Fairchild has cooperated with the Mississippi Bureau of Narcotics and supposedly with the Federal Government in its investigation." There was some conversation about that last passage. Where did that information come from?

A. I asked Glenn about that after you asked that and he said that was what the Bureau testified to before the Grand Jury.

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Q. Frankly, the Bureau has testified before this Grand Jury that Drew never cooperated.

A. Well, that's what Mike Tyson said, he had testified, that's what he testified before the State Grand Jury.

Q. And Glenn --

A. That's what Glenn said. Frankly, I don't know what he said before the Grand Jury.

Q. You're not responsible for this statement.

A. No.

Q. And if there is information that would be incorrect here, you didn't write it --

A. I did not draft this or write it; no, sir. I'm just remembering what Glenn told me where it came from, okay?

Q. Okay.

A. And he pointed out, he said, "He testified for the Government", that was allegedly, allegedly he did that. The Bureau said that.

Q. The "Bureau" as in F.B.I., or "Bureau" as in Mississippi Bureau of Narcotics?

A. Bureau of Narcotics.

Q. Finally, let me ask you a question that's unrelated. Some information has come to our attention recently Do you know a man named John Stocks?

A. Yes, sir.

Q. How do you know him?

A. I know him -- he was involved with the Studebaker's business with me for a short time.

Q. Studebaker, like the car?

A. Yes, sir. See, we got a number of nightclubs, I guess we got one in Jackson, Mobile, Dallas, Tallahassee, Pensacola, Florida; and he bought the rights to develop Florida.

Q. The rights to develop the Studebaker nightclub?

A. Right. It's like a franchise.

Q. And "Studebaker" is the name of the nightclub?

A. Yes.

Q. Where is Mr. Stocks from?

A. Tallahassee.

Q. And do you remember when you first met him?

A. About -- I guess about two years ago, I guess.

Q. He approached you?

A. Yes.

Q. Wanting to franchise your Studebaker in Florida?

A. Yes.

Q. And did you reach an agreement?

A. Yes.

Q. What were the terms of the agreement?

A. The terms of the agreement was that he would pay

-- I believe this is correct -- $150,000 for the rights to develop Tallahassee, and I believe Tampa and I believe Pensacola. I'm not sure, but I believe there were three of them.

Q. Is there a document somewhere that would reflect that?

A. Probably out at the headquarters.

Q. Pardon me?

A. I would think out in Dallas; yes, sir.

Q. Studebaker's headquarters is in Dallas?

A. Yes.

Q. What is your connection?

A. I'm one of the owners.

Q. One of the owners?

A. Yes, sir.

Q. You negotiated with Mr. Stocks?

A. Just basically, very, very lightly. I don't get involved with the actual negotiations of those things.

Q. What is the name of the corporation involved with Studebaker's?

A. Probably Yesterday's Incorporated.

Q. Yesterday's?

A. Yesterday's. It's changed since then to Studebaker's of America.

Q. Did you actually get paid $150,000?

A. Yes, sir.

Q. Did you get paid or did the corporation get paid?

A. The corporation got paid.

Q. If we looked back at the records, who would the check be made out to?

A. I would assume Studebaker's.

Q. If it were made out to you, what would you have done with it?

A. I'm sure that I would have turned it over.

Q. Mr. Stocks was involved in some litigation before Judge Nixon, was he not?

A. Yes.

Q. In the briefest explanation, what is the nature of the litigation?

A. The nature, as I understand it, has something to do with some condemnation.

Q. Of Petit Bois Island?

A. Petit Bois Island.

Q. Were you involved in any way with the litigation of Petit Bois Island?

A. No, sir.

Q. Did you meet with Mr. Stocks through the litigation

A. No, sir.

Q. Did you advise Stocks on the litigation?

A. No, sir.

Q. When was the litigation; do you know?

A. No, sir.

Q. Was Stocks in Mississippi for the litigation -- there was a trial here, was there not?

A. I assume. From what I read in the paper.

Q. When you were dealing with Mr. Stocks, did you put the two together -- did you know that Mr. Stocks was involved in Petit Bois Island?

A. No, sir.

Q. You never had conversations with him about the condemnation suit?

A. No, sir. I'm not saying that. I'm saying that we never discussed any of the actual details of it. You know, he explained to me that he was involved in the developing an island that he had and that he wanted to go ahead and do these things that he had done in Florida.

Q. But I mean --

A. He explained to me that he was buying or had bought and developing Deer Island, you know, and that's what I thought he was doing with Petit Bois.

Q. What put him in touch with you; when was the first time you had dealings with him?

A. He phoned me.

Q. Out of the blue?

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A. Yes, sir. I just got a call from him. He wanted to know if I was involved with Studebaker's and I said, "Yes." He said that he was interested in building some Studebaker's down in Florida.

Q. Had you had similar franchise agreements with other people?

A. Oh, yes, sir.

Q. Give me an example.

A. I got one here in Hattiesburg, got one with Walter Payton up in Chicago, one down in Houston, Texas.

Q. How about instances where somebody bought the rights to use the franchise.

A. Right here in Hattiesburg.

Q. What was the sale price of that?

A. $75,000.

Q. So, the 150 was commensurate or comparable?

A. Yes, sir.

Q. And he wanted the rights to do it in three different cities?

A. Yes, sir.

Q. Would you have a copy of the agreement in your office?

A. Yes, sir. I've got the copy of some subsequent agreements where they wanted to do the whole state of Florida.

Q. With Stocks?

A. No, sir. Stocks got out of it. This was to Gene Lewis.

Q. Stocks sold out his interests?

A. Yes, to Gene Lewis.

Q. For how much; do you know?

A. The best I can recall it was $150,000.

Q. When did this occur; when did he sell his interests?

A. I'd say probably about a year and a half or two years ago. I don't remember. It's all right there on paper.

Q. What ever documents you can provide -- I assume that you are aware that the Petit Bois Island matter maybe of concern to the Grand Jury.

A. Right.

Q. In sum, it's your testimony that the $150,000 that stocks paid to you or to your corporation was totally unrelated to Petit Bois Island.

A. Yes, sir.

Q. In the sense of timing, would it have been before or after this lawsuit here?

A. Which lawsuit?

Q. The Petit Bois Island condemnation suit, do you know?

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A. I don't know. Right offhand, I don't know. You know, what ever it says on the documents --

Q. Sure. But you don't know specifically.

A. As a matter of fact, it is spelled out, as best I can recall, just sitting here thinking, in some kind of an agreement down with the Secretary of State of Florida is all spelled out.

Q. If we subpoena the appropriate records, we will find the $150,000 going where?

A. I'm sure to Studebaker's.

Q. Where is that account?

A. I would think at that time it was probably in Mobile. At that time. They have moved from there to Dallas.

Q. All right. Do you know the name of the bank account?

A. No.

Q. Would you have been a signature on the checks?

A. No, sir.

Q. How would you have made out the deposit if the check was made out to you?

A. If it was made out to me, I would have endorsed it, but I don't remember. It might have been, you know, but I didn't put any significance in it if it was.

Q. What was the name of the account in Mobile?

A. Yesterday's Incorporated, I'm sure. But I'll find out for you.

Q. Okay. If you would, step outside and I'll see if the Grand Jury has any questions and we'll let you know.

One more thing, I'm sorry. Have a seat, please. I'm sure that since we last met you have given some thought to the Fairchild case. Is there any information that I might not have asked that you, as an attorney and as a citizen, think is relevant to this proceeding?

A. No, sir. You've done an excellent job going into it.

Q. And, just getting back to the Petit Bois business, you are dead certain that your business with Stocks had nothing what ever to do with Petit Bois Island litigation.

A. Absolutely certain.

Q. Did Judge Nixon know that you were involved in the Studebaker's Inc.?

A. Not that I have any knowledge of.

Q. You never discussed Stocks with Judge Nixon?

A. No, sir.

MR. WEINGARTEN:

Please step outside.

(Whereupon discussion between the Government and the Grand Jury took place, and the proceeding continued viz.)

Q. BY MR. WEINGARTEN:

Mr. Holmes, the Grand Jury would like to have clarification on two points.

You have testified about both, but just succinctly answer these two questions if you could.

Why didn't you go directly to Drew when you were about to leave office instead going to his father Wiley?

A. Why? Okay. Because Drew did not have an attorney and I just thought it would be improper after talking with Carroll -- I thought Carroll would speak for him -- and Carroll suggested that I should talk with Wiley.

Q. At least why didn't you have Drew sitting there, because he could be privy.

A. I didn't know who would be there. You know, when I went out there that morning I didn't know whether Drew would be there or not.

Q. Why didn't you insist on Drew being there? I mean, he was the one most obviously directly effected. He was your defendant. Why shouldn't he or why wasn't he a party of this whole process?

A. I just assumed that whatever Mr. Wiley Fairchild suggested to his son he was going to do. I just sort of assumed that.

Q. You also testified about this: Why, in a succint way, but why did you seek the case from the Feds when you did?

A. Why did I "seek" it?

Q. Yes.

A. I never did "seek" it.

Q. Well, you made a telephone call to George Phillips.

A. To ask him what ever happened on it, because he had presented it to my own Grand Jury, you know, "What did you all do?"

In other words, "Did you sentence him, with Watkins, is he your C.I., you know, what is the situation on it."

Q. Did you ever reach out specifically and want that case?

A. Oh, no, sir. No, sir. As a matter of fact, with Mr. Fairchild being in Hattiesburg and everything, the last thing you wanted to do was in get into something like that.

Q. Well, did you not testify last time that you were a little concerned about the heat that you might take about giving a very, very prominent citizen's son a walk?

A. Yes, sir. That's true.

Q. Did you ever represent to anyone that you would see to it that Drew Fairchild would go to prison for his smuggling activities?

A. No, sir.

Q. Did you ever have that sentiment?

A. No, sir. Now, I told Bill Porter that -- and I lied to Bill -- when I was trying to get somebody to sign the affidavit -- otherwise they were going to turn him loose out in Texas -- I told him that Watkins was going to come back and testify against Drew. I said one of these people is going to go to the pen, and I'm willing to let Drew have the same deal the Feds offered if he will come in a cooperate.

Bill called me back and said that he will cooparate with the State and I said, "fine".

He did sign the affidavit, he has agreed to testify and as a matter of fact, Katy, who was my assistant there, had it all lined up and was preparing to have Drew testify against Watkins.

Q. Okay. The final question is, as the District Attorney of Forrest County -- and other counties as I understand -- you have a situation where the airport manager was cooperating with major drug smugglers. It was in your ability legally and factually to prosecute them -- probably successfully -- and have them sentenced to prison.

Why didn't you do that?

A. Why didn't I do that?

Q. Yes.

A. Well, the Federal Government already made him this one offer --

Q. But you were not bound by that.

A. I know that I wasn't bound by it, but normally whenever the Federal Government makes an offer for cooperation then you just jump up and say, "Naw, I'm not going to do it. I'm going to put him in the pen, eventhough he is going to cooperate with me." Normally you go in and make a plea bargain. A lot of times you don't make the best plea bargain, a lot of times you do things that, you know, you could re do them or re-hash it later, you might change it, but that was just the agreement that we agreed on.

That was in my discretion to make it. Here's a man that's a first-time offender, nonviolent criminal, granted, a person involved in a dope smuggling, but he had been under the Federal -- or I guess they had been handling it for a year and they never even filed a charge on him. The Feds never even charged him.

Q. I understand. So does the Grand Jury.

A. So, you get him down here and here you got somethi where they had offered him probation for cooperation and so I said, "Okay, I'll just do the same thing."

Q. Even though he never cooperated with them.

A. There was apparently, you know, I don't know why the Feds didn't and I'm not getting into that, but I know I did, I know I indicted him, I know he is a convicted felon, he's a convicted felon right now waiting to be sentenced.

As a matter of fact, the county has picked up $10,000 and they say they got the other $90,000 on the way, so at least we are at least $100,000 better off right now because of my action.

Watkins would never even have been arrested if it hadn't been for me, and I had to have Drew's cooperation to even get Watkins.

Q. Well, you could have used Mr. Malone.

A. Where was he?

Q. I have no idea.

A. I don't either. I asked Katy, "Why didn't you use him?" And she said she couldn't get it out of the Government -- you know, I couldn't get the cooperation.

I asked her a question you asked me the other day. "Why didn't we use him?" She said, "I tried to get him, and they couldn't promise me anything on those other people."

Now, I don't know where these other people are. As you well know, a lot of times you get a person arrested and they make a confidential informant and you send them off to South America and change their name, then you say, "I want them in here as a witness in a few weeks."

"Who's he?"

You know, I'm not saying the Government doesn't cooperate, but you know that.

Q. You've satisfied these questions. You certainly answered the questions to the best of your ability --

A. Yes, sir.

Q. And we thank you for your appearance. If there are any documents related to your Stocks transaction --

A. Sure.

Q. Have you got them at your office?

A. I'll be glad, if you want to come over to my office, I'll be glad --

Q. Not today.

A. Okay. My secretary is gone. She's on vacation. If you could come over, say, Monday -- I don't know where to put my hands on them -- but I'll be glad to.

Q. I'll have someone come Monday. It won't be me.

A. It won't be?

Q. No.

A. Okay. You'd be welcome.

Q. Thank you.

A. Thank you very much.

(Whereupon the testimony of Bud Holmes concluded at 10:42 a.m.)

CERTIFICATE OF REPORTER

I, William M. Hoppock, Official Court Reporter for the United States Grand Jury for the Southern District of Mississippi, impaneled as a Special Grand Jury on July 18, 1984, and the order appointing the said William M. Hoppock, dated August 31, 1984 and filed with the clerk of the United States District Court for the Southern District of Mississippi, hereby certify that the foregoing 34 pages, and including this page, contain a true and correct transcript of the proceedings had in the Special Grand Jury as taken by me in stenotype and by tape recorder, on the date hereinbefore stated, and later reduced to typewritten form to the best of my skill and ability.

Witness my signature and seal, this the 3rd day of October, 1984.

William M. Hoppock

WILLIAM M. HOPPOCK

My commission expires 11/4/87

EXHIBIT
Respondent's
Exhibit 34

NEWS ANNOUNCEMENT

September 6, 1984

A Federal Grand Jury sitting in the Southern District of Mississippi today returned a two-count indictment naming Hattiesburg businessman Wiley FAIRCHILD as a defendant. The first count charged FAIRCHILD with giving an illegal gratuity in 1981 to Federal Judge Walter Nixon in the form of mineral royalty interests. The second count charged FAIRCHILD with committing perjury in the Grand Jury when he testified about circumstances surrounding the transfer of the royalty interests to Judge Nixon.

As to the first count, Assistant Attorney General Stephen S. Trott, head of the Criminal Division of the U. S. Department of Justice, advised that the law requires that the donor provide the gratuity "because of an official act" to be performed by the public official. The law is clear that the giving and receiving of an unlawful gratuity are separate offenses, Trott said. The recipient's intent may differ from the donor's intent. The indictment alleges criminal intent on the part of the donor but not on the part of the recipient of the gratuity. Therefore, although named in the indictment, Judge Nixon is not a defendant in this case; and, this indictment accuses Judge Nixon of no wrongdoing.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 34

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 35

EXHIBIT
Respondent's
Exhibit 35

WEINGARTEN:
For the record it is approximately 4 PM on November 1, 1984. We are at the FBI Office in Jackson, Mississippi. Present are Reid Weingarten and Marshall Jarrett from the United States Department of Justice in Washington, Weldon Kennedy from the FBI here in Jackson, Mr. Wiley Fairchild accompanied by his attorney, Wallace Gunn, and John Baltar. We are present pursuant to an agreement between counsel wherein Mr. Fairchild will make a proffer in anticipation of plea negotiations and pursuant to agreement, we will proceed by the United States Attorneys posing questions to Mr. Fairchild. Is that correct for the record?

That's correct.

WEINGARTEN: Okay. Now Mr. Fairchild, of course you're, so you understand, you're presently scheduled to proceed to trial on December 4, 1984. What you're doing now, is you're making a proffer to the United States as the opening salvo in potential plea negotiations. Let me begin by asking you generally, what information do you have as we sit here that might add to or alter your Grand Jury testimony that you gave in Hattiesburg some months ago?

Mr. FAIRCHILD:
Preacher Shows, who lives in Covington County, me and him have been political friends for 30 years. His son made a doctor. I've loaned him some money to go to school. He later got indicted for selling controlled substance, drugs, writing prescriptions. They tried him and convicted him. Judge Nixon was the judge. He come to Hattiesburg and asked me did I know anybody in Washington that would that I could get to intervene. I said "No". I had heard about Bud Holmes that, flying Nixon to Colorado skiing and different places and having parties out there. I said, "Go see Bud Holmes."

WEINGARTEN: Did you say this to the father or to the son, the doctor? Is this the father?

Preacher Shows.

Preacher Shows, the father.

WEINGARTEN: How do you spell that last name?

SHOWS.

WEINGARTEN: Okay. Preacher is the first name? Is he a preacher or is that just his

Well he is a kind of a preacher, yeah, but ah

Do you know his name Mr. Fairchild?

That's all I know is Preacher and just Dr. Shows, and so I told him to go see Bud Holmes. Dr. Shows and Preacher Shows, his dad, went to see Bud Holmes, went to his home, and they showed him pictures of the judge and all that, you know, kind of put on the dog, you know.

FAIRCHILD Cont'd:

and they give him a check for $10,000, and Dr. Shows was satisfied because he expected to get a 18 months sentence, and he got, I think, 6 months but then he wanted to get back, wanted Bud to help him get back to where he could practice again, and Bud wouldn't talk to him. I called Bud and he said oh I didn't, I didn't charge him nothing, said I never was a lawyer of record. I believed Bud and I told Preacher Shows that, I said, "You didn't give Bud no money", he said, "Yeah, I give him a $10,000 check." He brought the canceled check too.

WEINGARTEN:
Was it made out to Bud Holmes?

FAIRCHILD:
Yes.

WEINGARTEN:
Do you remember what it said on the back? Was it cashed? Do you remember?

FAIRCHILD:
I don't remember. Well, I looked at it, but I don't remember. Wasn't no doubt in my mind the check was cashed. So this was sometime back, see. So when Carroll come--

About six years ago he thinks.

FAIRCHILD:
Year, about six years ago. So when Carroll come and asked me to put the Judge in a good deal, you know the thing just registered with you, you know.

WEINGARTEN:
Well, did you have any reason to believe that any of the money, any of the $10,000 that Preacher Shows gave to Bud got to Nixon?

FAIRCHILD:
Well I believe that $10,000 got it reduced from 18 months to 6 months. But that's, well it's just obvious, the pattern was 18 months, 18 months of a first offense.

WEINGARTEN:
Did Bud Holmes tell Preacher Shows or his son what happened to the money?

FAIRCHILD:
I don't know, but Preacher Shows is still in, the Government is still after him. They're still after him, and

WEINGARTEN:
You mean the son?

FAIRCHILD:
Yeah.

JARRETT: Dr. Shows, is he the one that lives in Newton?

FAIRCHILD:
Yessir.

Okay.

FAIRCHILD:

Because he come to me, Dr. Shows, again, see, and told me I just don't remember what all, but wanting me to intervene again, see. And, ah and he was going to Texarkana and seeing this fellow see. This convict was in there, who had, Naw, a convict there.

Was his name Smith? You don't know his name?

FAIRCHILD:
I don't know his name. But anyway they got that fellow and brought him to Jackson here and he said to the FBI, I assume here, that Dr. Shows told him, said you don't have nothing to worry about. Says I got George Phillips.

JARRETT:
Shows is telling this to who?

FAIRCHILD:
Shows telling

JARRETT:
To this convict?

FAIRCHILD:
No, no, the ex-convict was supposedly testifying to the FBI here or George Phillips. NotGeorge Phillips, the prosecutor. And he says you don't have to worry about your case, says I got George Phillips fixed with a contractor friend in Hattiesburg.

Who said that?

FAIRCHILD:
The convict that they brought from Texarkana.

WEINGARTEN:
Said that to Dr. Shows?

FAIRCHILD:
Yeah. George Phillips called Carroll Ingram. That's where I got my information. So I, Preacher Shows come down to see me and I said, Preacher,you've embarrassed the hell out of me. I told him what happened. I said, I've said nothing about it. I said, besides George Phillips, I don't think nobody can get to him. He hasn't been back to my office since. So much for that.

WEINGARTEN:
I'm just a little confused.

JARRETT:
Yeah, I am too, Let me ask you about that. The convict was saying that he had George Phillips taken care of or Shows was saying he had George Phillips taken care of?

FAIRCHILD:
Shows told the convict that he had George Phillips taken care of through a contractor friend in Hattiesburg.

WEINGARTEN:
Is there any reason to believe that?

FAIRCHILD:
No, no, no.

JARRETT:
Were they referring to you as the contractor?

FAIRCHILD:
Yes.

JARRETT:
They were referring to you. Okay.

FAIRCHILD:
The doctor was trying to get this convict here to not squeal on him. That was in my opinion.

WEINGARTEN:
I see. So that's all garbage. That part's not true?

FAIRCHILD:
That's all garbage. Yes, absolutely, I never talked to George about anything since he's being prosecuting.

WEINGARTEN:
So that the important evidence is that Preacher Shows gave $10.000 to Bud Holmes for his son's case. His son was originally anticipating 18 months, wound up with a sentence of six months.

FAIRCHILD:
Yeah.

WEINGARTEN:
Now, Preacher Shows goes back to Bud Holmes and says I want my son to resume his practice and Bud says, "No, I can't help you there."

FAIRCHILD:
Well he wouldn't return his phone calls or something, so he got me to call Bud Holmes, see.

WEINGARTEN:
And Bud said to you again?

FAIRCHILD:
He says, ah, "Oh, I never was attorney of record." Says, "I didn't charge him anything."

WEINGARTEN:
Do you happen to know who was the attorney of record? Who represented the son?

FAIRCHILD:
It was some lawyer here in town.

WEINGARTEN:
Was there a jury trial or was it a plea of guilty?

FAIRCHILD:
No, it was a jury trial.

WEINGARTEN:
Do you remember who the prosecutor was? Would you know that? Was it John Hopgood (or Hopson)?

FAIRCHILD:
No. (It was his assistant)

WEINGARTEN:
Was it a Federal case? Obviously it was a Federal case, it was Judge Nixon.

FAIRCHILD:
Oh yeah, yeah, it was a Federal case.
You could make a phone call to Preacher Shows. Get one of your men over there, he'd tell you.

WEINGARTEN:
I'm sure we could pull the file.

FAIRCHILD:
Oh yeah.

JARRETT:
We know Dr. Shows.

GUNN(?):
There would probably be some phone calls at that time from Bud to Judge Nixon. That was six years ago.

WEINGARTEN:
And you were about to start on the time when someone came to you or Carroll came to you and

FAIRCHILD:
And asked me to put Judge Nixon in a deal. He said he had kids in school in college and he was having a hard time, so I put him in a deal and I put him in three different deals that I thought would pay off good because I was scared not to, although three months before my son had done done his plea bargain with George, I'm getting confused.

WEINGARTEN:
No, that's true, that's true. So far, so good.

FAIRCHILD:
When I actually signed the deeds, you know, and it was so called, you know, when I actually signed them, three months before that I had, I had

WEINGARTEN:
Drew had been up here.

FAIRCHILD:
Yeah, made his plea bargain. But anyway when he asked me, knowing, and I wish I had made this statement to start with, I want to cooperate with you all to the fullest extent. If it hadn't been for them three damn crooks, I wouldn't be into it, see.

WEINGARTEN:
When you say three who are you referring to?

FAIRCHILD:
Carroll, Bud Holmes and the Judge. I'm going to do everything I can, I'm going to tell you everything I can remember. Now there may be some things I can't remember that might, if Carroll decides to cooperate and I think he will when the nut cutting, when it gets down to that. He might can freshen my memory and Skip Jarvis might could refresh my memory. I said that before the Grand Jury that I didn't well that I didn't remember negotiating on the price but I know I did. I just had to be and change that from 1 acre to 3 acres. Wouldn't nobody have done that but me.

WEINGARTEN:
I know that.

FAIRCHILD:
But there's where Skip or Carroll Ingram

WEINGARTEN:
Well what would have caused, who, would it have been because Nixon wanted more?

FAIRCHILD:
Obviously it was something that was said to me that caused me to do that see and I'm being honest when I just can't remember. That's why I say that if Skip or Carroll or if I could and I'm just, again when I decide to come up here and do this I'm talking to people, you know, that will jog my memory up see, and my son has told me some things that I had forgotten all about. One of the things that he

FAIRCHILD Cont'd:
told me about that I called his wife and told her Carroll had brought me a copy of this thing where it had been passed to the file, see, his case had been passed to the file. She come over there and got it, but these, that's on December 23. But anyway, we been trying to get some dates from Maxwell Air Force Base. A day that Bob Broyles and Bill Porter went over there and spent one weekend to see Joe Crone and my testimony before the Grand Jury. He come out there, I think it was a Monday morning see, and says to me, Bob Broyles said to me, and Bob Broyles said to me, now Bob Broyles was a partner with Drew see at the airport, they were 50-50 partners, but he says to me, says Bill Porter coming on back from Montgomery, said if Drew would get up off his money he could come clean and Bob Broyles said, Well, Drew don't have no money. And he said well, but his old man does. He said well, that not his. That's not Drew's money, that his and he said well if he knew his son's ass was going to get in a crack he'd get up off of it. Bob was sitting across, and I said, Now Bob, I've got your message but the answer is not No, it's Hell No. I'm trying to place that date with the time that I called Carroll and told him to bring Judge Nixon out to the office. But anyway Carroll brought him out to the office.

KENNEDY:
You're apparently angry about this. This made you real angry. Is that why then you called Ingram.

FAIRCHILD:
Oh very angry. I get angry everytime I talk about it. Your men will tell you that when they come down there, when I asked them to come down there. But anyway, Nixon come in and I talked to Nixon just like I would, uh, if I had a tape recording of it. I told him, I said, Now my son is guilty. But I said Bob Broyles there is just as damn guilty. He was at the airport and my son was in the bed asleep. But I said he indicted my son because his dad had some money. And I said I don't like it a damn bit but just go indict this other fellow and go threat them both alike. I told Judge Nixon that and I were mad and I think I, then, this was one evening. My secretary remembers Carroll bringing a man in the office and him staying there, and she carried him on back to the coffee. Carried Carroll back.

WEINGARTEN:
Is this Margaret Buckley?

FAIRCHILD:
No, she's more of the bookkeeper type. This, and,

This secretary is still there?

FAIRCHILD:
She's there, yes.

WEINGARTEN:
Does she remember seeing Judge Nixon? Secretary?

FAIRCHILD:
Yeah, I asked her when you asked me to find out this yesterday and but she wouldn't recognize him. So

Did she remember Carroll?

FAIRCHILD:
Oh yeah, she remembered Carroll.

She remembered Carroll bringing a man back there who she didn't know and taking him in the office and then she took Carroll back to the coffee room and Mr. Fairchild

FAIRCHILD:
So that night I had just lay down, phone rang, and a voice said, Wiley, says the man that we talked about this evening, I'm over at his house. He says and I've talked to him and things are going to be all right. I said, well good.

Who called you?

Judge Nixon.

WEINGARTEN:
Was it Judge Nixon? Did you recognize him?

FAIRCHILD:
Yeah I recognized him, but I'm giving you verbatim what was said, see. And so I guess he was scared the phone might be tapped.

KENNEDY:
He said again what now. Say what he said again.

FAIRCHILD:
He said, Wiley, the man that we talked about this evening, I'm over at his house and everything is going to be all right. I said, well good. We said something else, you know, I'd done got the important thing, I don't remember. But after awhile, he said, "He wants to talk to you. I said, Good and he says, of course Bud got on the phone and he said, Wiley when this man asks me to do something, says, I don't ask no questions, I just do it. I said, Well I appreciate that very much. So that ended that and we're trying to tie that date down because when Bob Broyles came back from Maxwell, see, and I think it was pretty close to the time it was passed to the files.

WEINGARTEN:
Well, why did you want Judge Nixon then because at that point the case was in state court. Why did you tell Carroll to bring you Judge Nixon?

FAIRCHILD:
He owed me a favor. That's the way I looked at it.

WEINGARTEN:
And why was that, just so it's clear?

FAIRCHILD:
Well I had put him in what I thought was 3 good deals but turned out it was two good deals.

WEINGARTEN:
What else? What other things can you tell us that add to your Grand Jury testimony?

FAIRCHILD:
Well to get back to the price of that and to the dating of them, you know like I said awhile ago, I hadn't since I decided to do this, I hadn't you know done things and went back over things where, but the biggest thing, if Skip Jarvis or Carroll Ingram could help me remember what went on about the back dating, I know what went on about the back dating. We went ahead and made them out and sent them to Carroll, see, and he said back date them see. Of course they were first dated when they were supposed to be.

WEINGARTEN:
Okay, can we go off the record for a second?

FBI

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☐ Routine

CLASSIFICATION:
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☐ CONFIDENTIAL
☐ UNCLAS E F T O
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Date 11/2/84

EXHIBIT
Respondent's Exhibit 36

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 36

FM JACKSON (58B-109) (P)

TO DIRECTOR (58-11332) PRIORITY

ATTN: SUPERVISOR DENNIS AIKEN
PUBLIC CORRUPTION UNIT

BT

UNCLAS

WALTER LOUIS NIXON, JR., CHIEF U. S. DISTRICT COURT JUDGE, SDM, BRIBERY - U.S.D.C. - PUBLIC CORRUPTION; OO: JACKSON.

RE JACKSON TELETYPE TO THE BUREAU, DATED OCTOBER 18, 1984.

THE FOLLOWING IS A SUMMARY OF PERTINENT EVENTS IN THIS MATTER TO DATE:

ON OCTOBER 30, 1984, MS. ATTORNEY GENERAL ED PITTMAN CONTACTED JACKSON SAC, STATING HE HAD BEEN VISITED AT HIS RESIDENCE ON OCTOBER 28, 1984, BY JOHN BALTAR. (BALTAR IS A LONG TIME FRIEND AND ASSOCIATE OF WILEY FAIRCHILD, THE HATTIESBURG, MS., BUSINESSMA WHO HAS BEEN INDICTED IN THIS CASE ON A CHARGE OF FURNISHING SUBJECT NIXON A GRATUITY AND PERJURY OF HIS GRAND JURY TESTIMONY.)

2 - JACKSON
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58B-109-3
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PAGE TWO UNCLAS JN 58B-109

ACCORDING TO ATTORNEY GENERAL PITTMAN, BALTAR RELATED TO HIM THAT FAIRCHILD HAS BECOME DISENCHANTED WITH THE LEGAL ADVICE BEING PROVIDED BY HIS ATTORNEYS IN CONNECTION WITH HIS RECENT INDICTMENT AND HE REQUESTED THAT ATTORNEY GENERAL (AG) PITTMAN ATTEMPT TO INTERCEDE WITH JACKSON SAC ON BEHALF OF FAIRCHILD. AG PITTMAN STATED ~~[illegible]~~ BALTAR CLAIMS FAIRCHILD COULD HAVE SIGNIFICANT INFORMATION WHICH HE WOULD LIKE TO FURNISH TO THE FBI IN EXCHANGE FOR AN UNSPECIFIED "DEAL." AG PITTMAN STATED JOHN BALTAR WISHED TO PERSONALLY DISCUSS THE MATTER WITH JACKSON SAC.

ON OCTOBER 30, 1984, JOHN BALTAR TELEPHONICALLY CONTACTED JACKSON SAC, STATING HE WAS AWARE THAT JACKSON SAC HAD BEEN PERSONALLY CONTACTED BY AG PITTMAN IN BEHALF OF FAIRCHILD. BALTAR INDICATED FAIRCHILD IS SEEKING IMMUNITY FROM PROSECUTION BY THE FEDERAL GOVERNMENT BECAUSE OF HIS INVOLVEMENT WITH SUBJECT NIXON AND "OTHERS." BALTAR RELATED THAT FAIRCHILD HAS RECEIVED "BAD ADVICE" FROM HIS ATTORNEYS WHO HAD COUNSELED HIM AGAINST COOPERATING FULLY WITH THE U. S. GOVERNMENT IN THIS MATTER AND HAD APPARENTLY BEEN ASSURED BY HIS ATTORNEYS THAT THE FEDERAL GOVERNMENT DID NOT HAVE A SOLID PROSECUTABLE CASE AGAINST FAIRCHILD. BALTAR STATED FAIRCHILD NOW REALIZES THAT THE FEDERAL GOVERNMENT DOES, IN FACT, INTEND TO PROSECUTE HIM IF HE FAILS TO COOPERATE FULLY WITH THE

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*U.S. Government Printing Office: 1984—[illegible]

FD-36 (Rev. 8-26-82)

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ONGOING INVESTIGATION. FAIRCHILD IS NOW WILLING TO EXTEND FULL COOPERATION AND WOULD BE WILLING TO TESTIFY. BALTAR ADVISED JACKSON SAC THAT IT WAS HIS HOPE THAT IN RETURN FOR FAIRCHILD'S COOPERATION, THE FEDERAL GOVERNMENT WOULD DISMISS ALL CHARGES AGAINST HIM. BALTAR WAS ADVISED BY JACKSON SAC THAT SUCH DECISION WAS SOLELY UP TO THE U. S. DEPARTMENT OF JUSTICE ATTORNEYS HANDLING THE CASE.

ON NOVEMBER 1, 1984, A MEETING WAS HELD IN JACKSON BETWEEN FAIRCHILD, BALTAR, FAIRCHILD'S ATTORNEY, WALLACE GUNN, JACKSON SAC, AND U. S. D. J. PUBLIC INTEGRITY SECTION ATTORNEYS REID H. WEINGARTEN AND MARSHALL JARRETT.

DURING THE LENGTHY CONFERENCE, A PROFFER WAS MADE BY FAIRCHILD ATTORNEY TO COOPERATE WITH THE FEDERAL GOVERNMENT IN THIS INVESTIGATION WHICH WAS TAKEN UNDER CONSIDERATION BY U.S.D.J. ATTORNEYS. FAIRCHILD THEREAFTER FURNISHED A SMALL AMOUNT OF INFORMATION CONCERNING INSTANT INVESTIGATION IN THAT HE ADVISED DURING DECEMBER OF 1982, HE WAS TELEPHONICALLY CONTACTED BY FORMER FORREST COUNTY, MS., DISTRICT ATTORNEY PAUL "BUD" HOLMES AND SUBJECT NIXON, WHO WAS ON AN EXTENSION PHONE WITH HOLMES, DURING WHICH CONVERSATION THEY DISCUSSED THE HANDLING OF FAIRCHILD'S SON'S, DREW FAIRCHILD'S, CASE. (IF THIS INFORMATION COULD BE VERIFIED, ACCORDING U.S.D.J.

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Date ______

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ATTORNEYS, IT COULD BE FOR A PERJURY INDICTMENT AGAINST SUBJECT; HOWEVER, THERE IS NO INDEPEDENT MEANS TO VERIFY THIS CONVERSATION TOOK PLACE, OTHER THAN FAIRCHILD'S PERSONAL TESTIMONY.)

ON NOVEMBER 2, 1984, U.S.D.J. ATTORNEYS AND JACKSON SAC, AND CASE AGENT MET WITH JOHN BALTAR DURING WHICH MEETING BALTAR WAS ASKED TO CONVEY TO ATTORNEY WALLACE GUNN AND TO WILEY FAIRCHILD THAT THE GOVERNMENT'S POSITION IN THIS MATTER IS THAT FAIRCHILD HAS NOT FURNISHED SUFFICIENT VERIFIABLE INFORMATION WHICH WOULD CAUSE THE GOVERNMENT TO DISMISS CHARGES PENDING AGAINST FAIRCHILD AND A COUNTER-PROPOSAL WAS MADE BY U.S.D.J. ATTORNEYS WHEREBY IF FAIRCHILD WOULD PLEAD GUILTY TO ONE COUNT DEALING WITH FURNISHING A GRATUITY TO SUBJECT THAT COUNT NUMBER TWO OF THE INDICTMENT (PERJURY) WOULD BE DROPPED AND THAT SENTENCING WOULD THEREAFTER BE DEFERRED PENDING FULL COOPERATION BY FAIRCHILD.

BALTAR ADVISED HE WOULD RELAY THAT MESSAGE TO ATTORNEY GUNN AND FAIRCHILD; HOWEVER, HE FELT THAT FAIRCHILD DEFINITELY DOES NOT FEEL HE EVER DID ANYTHING WRONG IN FURNISHING THE GRATUITY EVEN THOUGH HE KNOWS IT TO BE AGAINST THE LAW. HE FEELS IT WOULD BE AGAINST FAIRCHILD'S PRINCIPLES TO PLEAD GUILTY IN ANY COURT WHEN HE PERSONALLY FEELS HE DID NOT COMMIT A CRIME.

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Date ______________

PAGE FIVE UNCLAS JN 58B-109

IT IS ANTICIPATED THAT FAIRCHILD'S ATTORNEYS WILL BE IN CONTACT WITH U.S.D.J. ATTORNEYS REGARDING THE ABOVE PROPOSAL WITHIN THE NEXT WEEK. IN THE MEANTIME, JACKSON IS PREPARING FOR TRIAL IN THIS MATTER NOW SCHEDULED FOR DECEMBER 3, 1984.

BT

003

NNNN

Approved: ______________ Transmitted ______________ (Number) (Time) Per ______________

EXHIBIT
Respondent's
Exhibit 37

PAGE 1

August 4th 1980 - AIRPORT DrUG Bust

Between these Two Dates (Wiley CONTACTED By CARROLL INGRAM to put JUDGE NIXON IN Oil DEAL.)

NOVEMBER 19th 1980 - PleA BARGAIN - Drew & U. S. Att.

FEBRUARY 26th 1981 - Wiley SIGNED 3 Oil Deeds to JUDGE NIXON.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 37

AUGUST 26th 1981 - DREW INDICTED by Mississipp
Wiley CALLED by BUD Holmes to HIRE Bill PORTER.

JANUARY 12th 1982 - Drew GIVEN 2 minutes to plead Guilty

PAGE 2

OCTOBER 12th 1982 - Pilot WATKINS PICKED UP IN FLORIDA - THIS IS 2nd TIME Pilot HAS BEEN PICKED UP.

Visit from BOB Royals After HE AND Bill PORTER HAD BEEN to MAXWELL AIR FORCE BASE to Visit JOE KROHN.

etween
hese
wo
ATES

Wiley CAlled CARROll INGRAM to HAVE JUDGE NIXON Visit Him AND CARROll Brought JUDGE out to Wileys Office.

[Wiley Received CAll from JUDGE NIXON AND BUD Holmes ABOUT 7:20 p.m.

DECEMBER 23RD 1982 - ON motion of District Attorney Office JUDGE WELDY PASSED Drew's CASE to the FILES.

PAGE 3

January 26th 1983 - Motion by Bud Holmes t
Re-instate Drew's Case.
Judge Dickie McKenzie
Ordered Drew's Case Re-instat

January 26th 1983 - Pilot Watkins: Entered a
Plea of Not Guilty and wa
Released on $100,000 Bond

November 4th 1983 - Bill Porter Missing

April 6th 1984 - Drew's Case Brought up
Again By Judge McKenzie.
Wiley Called John Baltar
to Talk to George Phillips.

July 18th 1984 - Wiley testified Before Grand Jury. Drew has Still Not Been Sentenced And Judge Nixon still on Bench. Wiley is still Subject to Power of Forres County Judge, District Attor And Judge Nixon. Wiley is Scared for Son.

Sptembur 6th 1984 - Wiley Indicted

C. VALUE

D. PROSECUTED FOR THIS:

GRATUITY

PERJURY TO BE DISMISSED

SENTENCING NEXT MONTH

DEAL ON SENTENCE

IV CALL & VISIT

Did you tell anybody about call?

V McKenzie visit

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 38

EXHIBIT
Respondent's
Exhibit 38

testimony

I INTRODUCTION

II DREW'S CASE

- A BUST
- B DREW goes to ~~BUD~~ George Phillips
- C. while BUD HAS CASE
  - DELAY
  - PUBLICITY
  - efforts to get $
    - Porter
    - Royals
    - Drew
  - ALL This: ANGER
- D Do what? Call NIXON
  - why? OWED A FAVOR

III LEASES:

- A. DESCRIBE DEAL
- B. DOCUMENTS MANIPULATED

Feb 25, 1980 Backdate Deal

EXHIBIT
Respondent's
Exhibit 39

Aug 4 80 BUST

Feb 25 1981 DEEDS DRAWN

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 39

Summer 1982

Dec 29, 1982

[illegible]

EXHIBIT
Respondent's
Exhibit 40

Barry Hess
Dbl + 50.00
50.00
Single Sunday

$75.00
Lazy Dbl.
3:30

Tues or Wed
B. J.

9:00 Monday - 26th
3rd Floor - Judge Cain -

Follow
Legal
Procedure

Informal Agreement.
If co-operation provides more than he anticipates
or/If as his investigation goes forward & proves
that - Wiley is Victim
he will dismiss Count.

W

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 40

EXHIBIT
PETITIONER'S

David B. Grisham
Watkins Ludlam & Stennis
P.O. Box

[redacted]
[illegible] —
Aug —
[illegible]

Lean on J. C. Bradfin

Civil in McComb [illegible]

Certified Copy of anything Filed in Court File -

File - Bo[illegible] [illegible] Dollar — [illegible]
960-4439 [illegible]

(Attend [illegible] [illegible] Answer — 20-30 pay.

[illegible]

Deadline [illegible]

[illegible] Set on 60' from Center of Right
[illegible] 60' Sign

EXHIBIT
Respondent's
Exhibit 41

1981 - Call to Audrey - (from New Haven)
Not making good decisions - Senile - Hasn't been in office in weeks - All people in office dissatisfied way things being run.

8-30-84 - Haines interview in Lake City

11-19-84 - Subpoena served on Sherry in U.S.

11-15-84 - Clarion Ledger - Barbour Bought Judge's worthless oil [illegible]

11-[illegible]-84 - Subpoena served on [illegible]

11-4-84 - Subpoena served on [illegible]

11-7-84 - Subpoena served on Leon Summerall

7-18-84 - W. Fairchild Testified

7-16-84 - W. Nixon Testified

7-19-84 W. Fairchild Continued

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 41

[redacted]

①

7-23-80 Cessna Leased by Richard Burns,
W. Palm Beach Vet.

7-28-80 Cessna Stolen

[illegible]

8-24-80 ✓ [illegible] Hattiesburg [illegible]
[illegible] Plea [illegible]
[illegible]

[illegible] I. [illegible]

[illegible]

11-19-80 ✓ Plea Bargain with Drew & U.S.A.

②

2-26-81 ✓ Wiley signed Deeds Dated 2-25-80

4-6-81 Covington County & Marion County Deeds Recorded

8-24-81 ✓ Brewer & Watkins [illegible] Forrest County & Plead Not Guilty - Robert Watkins Indicted in Forrest County -

9-3-81 Jack Weldy gave order by Agreement of D.A. (Katie Mattison AND Bill Porter - they waived reading of Indictment.

11-18-81 Jack Weldy Set Trial for 1/12/82

12-29-81 ★ Watkins picked up at Dallas - Ft. Worth

③

1-12-82 ✓ Drew Given 2 minutes to Plead Guilty - Plead Guilty Sentence deferred to 3-19-82

3-19-82 - Bill Porter Said Drew Ill (Back) Sentence deferred to July Term

6-25-82 - (Back). Sentence Set off until August Term.

8-12-82 - Sentence Set off until November Term

10-12-82 ★ Watkins Picked up in Florida

10-19-82 Mobile County Deed Recorded

11-12-82 L. S. visit to [illegible]

11-15-82 ★ Watkins Apprehended in Florida & Mississippi is Going to Extradite - Case Continued indefinitely

11-22-82 Joe Krohn transferred from Maxwell Air Force Base to Work Release-Pascagoula

12-23-82 - On Verbal Motion of State on Order of Jack Weldy passed case to files for Reasons Co-Defendant (Watkins) unable to be returned to State of Miss Despite efforts - Drew has agreed to Co-operate with State of Mi. He has Co-op with State of Miss. Bureau of Narcotics & Federal Gov.

1-26-83 Motion by Bud Holmes to Re-instate - States that Co-Defendant (Watkins) had never been apprehended - Drew was willing to testify & at that time Watkins had been picked up & under jurisdiction of State of Miss. Courts.

1-26-83 Order by D. McKenzie to Re-instate trial of Andrew Fairchild because Co-Defendant now back in State & Set for March '83 Term

1-26-83 Robert Leman Watkins, represented by H. Lee Bauman entered a plea of Not Guilty - Same Day Released on $100,000 Bond posted by Delta Bonding Co. - 1507 Hardy St.

. l . Bauman
32 . Dixie Hwy
iami Florida
05-445-2314

3-18-83	Motion for change of Venue by Watkins through Bauman Due to Extensive pre-trial publicity and the rising controlled substance arrest in Forrest County - the media making the public aware of those kinds of crimes - Especially WDAM TV & the Clarion Ledger of Jackson.
4-11-83	D. McKenzie entered order for motions to be filed by April 22, 83 & ordered Watkins to Associate Local Council & motions to be heard on that Day
4-11-83	Trial Date set for 5-23-83
4-21-83	By order D. McKenzie changed the motion for May 23, 83 & Trial for May 30th, 83

5-4-83	Watkins, through Bauman made motion for continuance
5-9-83	D. McKenzie continued trial to a Later Date.
10-19-83	D. McKenzie CHANGED Venue to Harrison County for trial 12-12-83 on this matter, but venue to remain in this court until 11-30-83 (Date of motions)
11-4-83	Bill Porter Missing
11-22-83	D. McKenzie ORDERED Richard Waltman & Delta Bonding Co. & Robert Watkins to show cause why judgement on Bond should not be made & ORDERED the Arrest of WATKINS.

②

11-30-83 Victor Lee / Delta Bonding Co. was served to appear on 1-1-84 to show cause why Judgement should not be

12-19-83 D. McKenzie signed Fugitive Warrant & continued case for this term on Motion of D.A.

12-28-83 Halat & Sherry Atty's – Motion by Watkins ~~through~~ Atty Sherry of Biloxi that they set aside Bond forfeiture & Re-admit him to bail, because Bauman did not advise trial Date of 11/21/83 & it is his intention to appear in Hattiesburg & obtain counsel, but does not want to be incarcerated

1-4-84 Final Judgement on Bond of Watkins

1-24-84 Jolly Mathews had Drew's case continued

3-12-84 D. McKenzie continued case until court could get Robert Watkins

3-19-84 Milton Schlesinger continued Drew's case for Bill Porter.

3-19-84 Carroll Ingram continues Drew's case

- 19-84 D McKenzie continues for this term on motion of D.A.

4-6-84 Judgement against Robert Watkins & George Hitt dba/Delta Bon & Revoked Hitts License
B

4-19-84 - Order by George Dale - Revoking License & Providing that Hitts bond filed with Insurance Commission $10,000 be paid to Forrest County. (On 8-19-82 - Hitt transfer to Comm. of Ins. a $10,000 C.D. Peoples Bank of Miss. Jackson Dated 7/30/82 & matures 1/30/85.

George Hitt
116 Langford Place
Brandon, Miss.

4-20-84 - Letter from George Dale to Circuit Clerk of Forrest County transferring $10,000 C.D.

5-1-84 Karl Kopper Representing Drew & D.A. White Representing State of Miss continued for term.

9

.-20-84	Nixon Appears before Grand Jury
7-31-84 -	Drew to D. McKenzie for Sentencing
8-3-84	McKenzie continues to November '84 Term
9-5-84 -	Rodney Testified
9-6-84	Wiley Indicted - Pleads Innocent

EXHIBIT
Respondent's
Exhibit 41A

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

HATTIESBURG DIVISION

SPECIAL GRAND JURY IMPANELED July 18, 1984

(A QUORUM PRESENT)

Transcript of the testimony of:

WILEY FAIRCHILD

Taken on Wednesday, November 28, 1984 at 9:40 a.m.

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 41A

A-P-P-E-A-R-A-N-C-E-S:

REID WEINGARTEN
U.S. Attorney
Public Integrity Section
U.S. Department of Justice
Washington, D.C. 20530

JAN LITTLE
U.S. Attorney
Public Integrity Section
U.S. Department of Justice
Washington, D.C. 20530

FOREMAN: DAVID MITCHELL WARD, SR.

ASSISTANT FOREMAN: DOROTHY MAE CLAYTON

REPORTED BY:

WILLIAM M. HOPPOCK
Official Reporter per Order
Dated August 31, 1984

ORIGINAL

WILEY FAIRCHILD

Having been called to testify
and having first been duly
sworn, testified as follows:

MR. WEINGARTEN:

For the record, this is November 27th, 1984 and we have our quorum. Not only do we have our quorum, but we have everybody.

(Whereupon a discussion was held between the U.S. Attorneys and the Grand Jury)

MR. WEINGARTEN:

In a real loud voice, please state your name.

THE WITNESS:

Wiley Fairchild

MR. WEINGARTEN:

And where do you live, sir?

THE WITNESS:

Hattiesburg, Mississippi.

MR. WEINGARTEN:

And how are you employed?

THE WITNESS:

I'm self-employed.

MR. WEINGARTEN:

And Mr. Fairchild, my name is Reid Weingarten, and we know each other, right?

THE WITNESS:

Yes.

MR. WEINGARTEN:

And this is Jan Little, and you know her.

THE WITNESS:

Yes.

MR. WEINGARTEN:

We are both attorneys for the Justice Department. In fact, you know these people here. They are members of the Federal Grand Jury seated here in the Southern District of Mississippi, and you testified before this group back in July of this year, did you not?

THE WITNESS:

Yes

MR. WEINGARTEN:

Do you recall that?

THE WITNESS:

Yes.

MR. WEINGARTEN:

And following your Grand Jury testimony, you were indicted by this body; were you not?

THE WITNESS:

Yes.

MR. WEINGARTEN:

And charged with two offenses: One, paying a gratuity, and two, committing perjury; do you recall that?

THE WITNESS:

Yes.

MR. WEINGARTEN:

Now, what happened in Court in New Orleans on Monday of this week?

THE WITNESS:

We had a plea bargaining agreement.

MR. WEINGARTEN:

Okay. And what did that plea agreement require you to do?

THE WITNESS:

To cooperate with the Government.

MR. WEINGARTEN:

And in addition, did you plead guilty to Count 1 of the indictment -- the gratuity count?

THE WITNESS:

Yes.

MR. WEINGARTEN:

And in return for your guilty plea and in return for your cooperation, has the United States promised to move to dismiss Count 2, the perjury count?

THE WITNESS:

Yes.

MR. WEINGARTEN:

Now, for the record, why don't we call this 11/27 1.

(Whereupon Government's Grand Jury Exhibit 1 marked for identification)

I'm going to show this to you. Mr. Fairchild, is this a copy of the plea agreement that was entered into between yourself and the United States?

THE WITNESS:

Yes.

MR. WEINGARTEN:

With permission from the Grand Jury I will read it.

PLEA AGREEMENT

No. 1. The Defendant, Wiley Fairchild, will plead guilty to Count 1, the indictment on the gratuity count.

No. 2. The United States will move to dismiss Count 2 of the indictment, the perjury count.

No. 3. The United States will make known to the sentencing Court any and all cooperation that Wiley Fairchild provides.

No. 4. The United States retains the right to allocute at sentencing (for those unfamiliar with the term "allocute", that means the United States can argue at sentencing as to what the United States thinks the appropriate sentence should be)

And 5, Wiley Fairchild will not be prosecuted by the United States for any offense that the facts of which are now known to the United States.

Now, Mr. Fairchild, is it fair to say that that plea agreement was the basis for what happened in Court on Monday?

THE WITNESS:

Yes.

MR. WEINGARTEN:

And are you here today to cooperate as best you can with the Grand Jury investigation.

THE WITNESS:

Yes.

MR. WEINGARTEN:

Now, when you testified before this group the last time, were you completely truthful?

THE WITNESS:

No.

MR. WEINGARTEN:

And why not, sir?

THE WITNESS:

My son was involved in a drug bust, and I was afraid that it would jeopardize his case.

MR. WEINGARTEN:

Were there certain people who were advising you as to what you should do when you went to the Grand Jury?

THE WITNESS:

I was influenced by my attorneys.

MR. WEINGARTEN:

And as a result of all of those factors, is it fair to say that you were not completely honest at that time?

THE WINTESS:

Yes. Yes.

MR. WEINGARTEN:

And are you -- what are you going to do this time? Are you going to be completely honest?

THE WITNESS:

I'm going to be completely honest to the best of my memory.

MR. WEINGARTEN:

And is that despite the fact that Drew still has not been sentenced?

THE WITNESS:

Yes.

MR. WEINGARTEN:

And the influences and the suggestions and the advice you are receiving now, what are people telling you?

THE WITNESS:

Well, I changed attorneys, and got some attorneys out of state, and they advised me to come forth and tell the truth.

MR. WEINGARTEN:

Are you comfortable with that advice, sir?

THE WITNESS:

Yes.

EXAMINATION

BY MR. WEINGARTEN:

Q. Now, what we are interested in this time, as we were the last time, are those mineral interests that you passed to Judge Nixon, okay?

A. Yes.

Q. Now, to the best of your recollection, when and by whom were you first approached regarding a deal with Judge Nixon?

A. I was approached by Carroll Ingram.

Q. Was --

A. After the drug bust that my son was involved in.

Q. All right. Now, the last time you were here, you said that the approach came before the drug bust. Which is the truth?

A. After the drug bust.

Q. Are you certain about that?

A. Yes.

Q. Now, for the record, who is Carroll Ingram?

A. He's an attorney here in Hattiesburg and were my attorney for some things at that time.

Q. Okay. Is he kin to you?

A. He's a second cousin.

Q. And to the best of your recollection, when Carroll Ingram approached you after the drug bust, what did he say?

A. He says, "I would like you to put Judge Nixon in a good deal."

Q. Did he indicate why?

A. He didn't -- he didn't say why. I just -- what I knew about that happened in the past, I knew he was a good friend of Judge Nixon, and I didn't ask any questions. I just said, "Well, I will."

Q. All right. Now, the Grand Jury has heard evidence that Drew entered into an agreement with the United States in November of 1980. The drug bust took place in August of '80, when would the approach by Carroll Ingram have taken place?

A. Between the drug bust and the plea bargain he had with George Phillips.

Q. Did there come a time when anyone approached you and instructed you to back date the mineral interests one year?

A. Yes. Carroll Ingram either asked me to or sent me word to back date them -- assignments is what we call them.

Q. Is it fair to say that originally the assignments were dated February, 1981; and pursuant to the instructions or the word from Carroll Ingram, they were back dated to February, 1980?

A. Yes.

Q. And why was that done; as far as you know?

A. To get it back before the drug bust.

Q. And why was that important?

A. Well, it was so they couldn't connect the two.

Q. The two being your passing assignments to Judge Nixon and the drug bust that put Drew in the U.S. Courthouse.

A. Yes.

Q. Okay. Mr. Fairchild, the Grand Jury has seen notes involving you and Judge Nixon totalling $9,500. What is your best recollection as how those notes were created?

A. Carroll Ingram handled the notes.

Q. As you can recall, those notes -- were they created at the same time that the assignments were transferred or were they created later?

A. They were created later.

Q. What is your best understanding as to why they were created?

A. Either Carroll Ingram or Skip Jarvis said that the Judge was operating under a disclosure act and had to give up some notes.

Q. And would that be because that there had to appear on the books something going from Judge Nixon to you in return for the mineral interests?

A. I would assume that's what his accountant would want.

Q. But as you understand it, when you first transferred those assignments, were there any notes memorializing this deal?

A. No. No.

Q. At the time you transferred those assignments, did you have any expectations of being paid by Judge Nixon? Was that of interest to you?

A. Really not. I wasn't concerned.

Q. All right. Mr. Farchild, the notes totaled $9500. If you can recall back to February, 1981; if you sold those interests on the open market to speculators or to an oil company, would they have been worth more or less than the $9500?

A. They would have been worth approximately 3 times the $9500.

Q. Now, the Grand Jury has heard some evidence that as we sit here now, those interests have put about $50,000 in the Judge's pockets.

Let me ask you two questions: How do you come up with the figure 3 times?

A. Well, just a judgment.

Q. Back then if you were putting them on the market, that's perhaps what they would fetch?

A. Yes.

Q. Okay. Are those wells still producing?

A. Yes.

Q. When you last testified, you described certain contacts you had with Judge Nixon after the assignments were passed. Let's talk about that today as well.

Did you and Judge Nixon, first of all, ever sit down and negotiate this transfer or was this handled by someone else?

A. It was handled by Carroll Ingram.

Q. Is it fair to say that there never was a meeting between you and Judge Nixon where you discussed the actual assignments of these interests?

A. There were not.

Q. All right. Following these assignments, did you ever meet with Judge Nixon?

A. Yes.

Q. All right. Describe the first meeting.

A. He just paid a social visit and thanked me for putting him in the deal and said, "If I can ever help you, I will. If I can't, I'll just tell you I can't."

Q. At this time was Drew still in trouble?

A. Yes.

Q. Who accompanied Judge Nixon to your office on that occasion?

A. Carroll Ingram brought him out there.

Q. And do you have a recollection of whether or not Carroll would have overheard those words by the Judge?

A. No.

Q. Carroll wasn't there at that time?

A. I think he was in the coffee room.

Q. Okay. Was that at your office?

A. Yes.

Q. The two visited you at your business here in Hattiesburg?

A. Yes.

Q. Just so we understand it. Have you ever gone to the Judge's chambers in Court anywhere?

A. No.

Q. Was there a second visit wherein Judge Nixon came to your office?

A. Yes.

Q. All right. In your own words, tell the Grand Jury how that happened to come about.

A. Bob Royals come out one Monday morning and told us that he and Bill Porter went to see Joe Crumm over at Maxwell.

Q. Wait a minute. So the Grand Jury understands who these people are. Who is Bob Royals?

A. He was a partner with my son at the airport.

Q. And is it your belief that Porter was as involved in the narcotics smuggling as was your son?

A. Not Porter, but Bob Royals.

Q. Bob Royals was. I beg your pardon.

A. Yes.

Q. And who is Porter?

A. Well, he was Drew's lawyer, my son's lawyer.

Q. And what happened to him?

A. His plane went down off the Coast and they never have found it.

Q. That would be in November of last year.

A. Yes.

Q. So, he's disappeared.

A. Yes.

Q. What did Bob Royals say to you when he visited you at your office?

A. He said, "We were coming back from Montgomery yesterday and Bill Porter said that if Drew would get o his money, he could come clear with this thing."

Bob Royals told him, says, "He don't have no money."

And he said, "Well, his old man has got some money."

And he said, "Yeah. But that's his money. It's not Drew's."

And Bill Porter told Bob, says, "Well, if he knew his son was going to get his butt in a crack, he would get up off of it."

And something else was said, and I said, "Well Bob, I got the message, and the answer's not no, it's hell no."

Q. So, in other words, Bob Royals was coming to you looking for money.

A. Yes.

Q. And where was that money to go; do you know?

A. No. No, I don't know, but I just assumed that Bud Holmes had told Bill Porter what to tell Bob Royals.

Q. Was a number, was a figure mentioned by Royals?

A. No.

Q. So, you didn't really know how much money they were looking for or where the money was to go.

A. No. I wasn't interested in hearing no figures.

Q. So, you perceived it to be a blackmail threat.

A. Yes.

Q. And what did you tell Royals -- you told him "no" --

A. Well, he didn't stay around long after I told him that.

Q. Okay. How did you feel about that approach from Royals?

A. Well, there's he's just as much guilty as my son and coming out there.

Q. Did't make you very happy.

A. No.

Q. In fact, would it be fair to say that it made you very angry?

A. Real mad, yeah.

Q. What did you do as a result of that?

A. I called Carroll and told him I wanted to talk to Judge Nixon.

Q. Why did you want to speak with Judge Nixon?

A. Well, I just wanted to tell him what was going on.

Q. All right. And what happened after that?

A. Carroll brought it --

Q. To your office?

A. -- to my office, yes.

Q. All right. And it's an important conversation and with as much precision as you can, tell the Grand Jury what happened after Judge Nixon arrived in your office.

A. Well, I was still worked up and was still mad and I repeated what I just repeated about Bob Royals' had told me and I told him that I thought Carroll Ingram was behind the scene and that I told him that I thought my son was guilty but that Bob Royals was too and go on and do whatever he wants to, but prosecute them both, don't pick out my son.

Q. Did you tell him that you thought you were getting blackmailed?

A. Yes.

Q. Did you mention Bud Holmes?

A. Yeah. Yeah. I told him that I figured that Bud Holmes was the main one that was behind the blackmail.

Q. In fact, did you tell Judge Nixon that you thought that Bud Holmes was the man that was behind the blackmail?

A. Yes.

Q. All right. What did Judge Nixon say?

A. Well, he said, "Well, let me see. Let me mumble some words."

Q. Was he committal in any way or did he tell you directly at that time what he was going to do?

A. No. No.

Q. All right. Mr. Fairchild, as best as you can recall, how much time past between the time that Bob Royals came to your office and the time that Judge Nixon came to your office the second time?

A. Why, it wasn't weeks but it could have been days.

Q. All right.

A. But it seems like it was --

Q. A pretty short time.

A. Yes. A pretty short time.

Q. All right. Did you hear from Judge Nixon again after that second meeting?

A. Yes. It was in the evening when he come out there --

Q. Was it the evening of the same day he came?

A. Yes. He was out there I think about 2:00 or 3:00 o'clock and that night, a little after 7:00, he called me and said, "You know the man that we was talking about this evening?" And I said, "Yeah." He says, "Well, I talked to him and he said that everything is all right, going to be all right." I said, "Judge, I sure do appreciate this."

Q. Who did you understand him to be speaking about?

A. Bud Holmes.

Q. And why did you understand that?

A. Well, that was who we talked about that evening, you see.

Q. He was the main person that you were concerned about?

A. Yeah.

Q. All right. And what happened after Judge Nixon said that to you and you responded?

A. Well, I remember thanking him for it. The next thing -- when I get excited sometimes I forget -- but the next thing I distinctly remember and the Judge says, "He wants to talk to you."

Bud got on the phone and he says, "Wiley, when this man asks me to do something, I do it. I don't ask no questions." And I said, "Bud, I appreciate that."

Q. How do you know it was Bud on the phone? Did he identify himself, did you recognize his voice?

A. I recognized his voice.

Q. Would that be the same for Judge Nixon?

A. Yeah. Yeah.

Q. And is there any doubt in your mind that that evening you spoke with Judge Nixon and Bud Holmes?

A. None whatsoever.

Q. Okay. And just say again just in case somebody missed it, what Bud Holmes said to you on the phone that night.

A. He says, "Wiley, when this man asks me something-- to do something -- I go ahead and do it. I don't ask no questions.

Q. Okay. In terms of Drew's case, what was the next thing that happened after this conversation you had with Judge Nixon and Bud Holmes?

A. It was passed to the files.

Q. Is it your understanding that when a case is passed to the files it means that it is not going to be prosecuted or it is not going to be handled?

A. That's my understanding, yes.

Q. Did you make a connection in your mind between the conversation you had with Nixon and the passing of the case to file?

A. Yes.

Q. If the case was in State court at the time, why did you call for Judge Nixon after Bob Royals tried to blackmail you?

A. Well, he had said, "If there is anytime that I can help you, I will." And that's why I called him.

Q. Did you view him as owing you a favor?

A. Yeah.

Q. Why?

A. Well, because I put him in a good deal.

Q. Okay. Is there anything that occurred that you knew about prior to this conversation that caused you to think that perhaps Judge Nixon could help you?

A. Yes.

Q. Why don't you tell the Grand Jury about that.

A. Preacher Shows was raised up about 5 miles from where I was in Covington County.

Q. Wait a minute. Is that Preacher Shows?

A. Yeah.

Q. S-H-O-W-S?

A. Yes.

Q. Okay.

A. And his father and I had been political friends for 25 years and they come down and to see me and -- well, he come down to see me and he says, "Mr. Wiley, I got a bad lawyer and I got convicted for selling controlled -- writing prescriptions for controlled substance -- and do you have any connections in Washington where you can help me?"

Q. Now, this is Preacher Shows' son that's talking?

A. Yeah.

Q. And he's a doctor?

A. Yeah.

Q. And he was prosecuted by the Federal Government for selling prescriptions illegally.

A. Yes. He was already convicted at the time.

Q. And now he's coming to you to see if you could him with the sentencing?

A. Yes. Yes.

Q. Okay. Tell us what happened.

A. Well, when he asked me if I had any connections in Washington, I said, "No." And I says, "Who was the Judge?" He says, "Judge Nixon." I says, "Well, Bud Holmes flies him to Las Vegas and out to Vail, Colorado and they are big buddies. Go see Bud Holmes."

And they did.

Q. And to you knowledge, what kind of a greeting did they get from Bud Holmes?

A. Well, he was glad to receive them and said, "Yeah." He would intervene.

Q. Did he ask anything from Dr. Shows' father in order to make the intervention possible?

A. Yeah. Ten thousand dollars.

Q. And was the money paid?

A. Yes. I saw a cancelled check. It developed after he done got out -- he got, as I understand it, the sentence reduced -- I understand that sentence is usually about 18 months and he got 6 months and after he served 4 months, he got out. He was wanting me to call Bud to help to get him back to where he could write prescriptions and Bud told me that he didn't charge anything and I believed it so I told Preacher Shows' dad about that and said, "Bud said he didn't charge you nothing." So he brought me a cancelled check and showed me the cancelled check where he had paid him the $10,000.

Q. So, you were satisfied, in fact, that Preacher Shows paid Bud Holmes the $10,000.

A. Yes.

Q. Did you learn from Preacher Shows where the doctor had -- that typically a physician that writes bad prescriptions have to serve 18 months in prison?

A. Well --

Q. Is that the usual sentence?

A. I got that from Dr. Shows. Him or his dad one. After he got the light sentence, they come down and thanked me for it and said he sure did stear us right.

Q. And is that because Judge Nixon imposed a sentence of six months?

A. That's to the best of my recollection, yes, six months.

Q. And he served about four as you recall.

A. Yeah.

Q. And then Dr. Shows wanted to get back out on the street and write some more prescriptions or go back to practicing?

A. Yeah. He could practice, but he just couldn't write prescriptions for controlled substance.

Q. Okay. And is that when you had your conversation with Bud?

A. Yeah. When he come back and wanted Bud to help him. He said that he called Bud and Bud wouldn't return his calls.

Q. What is your understanding as to why Bud wouldn't help him the second time? Do you have any understanding?

A. I didn't have no understanding. I just figured that he got his $10,000 and he just wasn't going to fool with it anymore.

Q. Now, did this incident with Dr. Shows take place before you transferred the assignments to Judge Nixon?

A. Yes. Some two or three years before.

Q. Okay. Did that incident influence you at all in your dealings with Judge Nixon?

A. Well, yeah, yeah.

Q. Why?

A. Well, in my determined knowledge, you could "deal" with Judge Nixon. If you got in trouble, he would help you.

Q. How could you "deal" with him?

A. Well, just like Bud got him to reduce that sentence.

Q. Do you have knowledge as to whether or not Bud shared the $10,000 that he received from Preacher Shows with Judge Nixon?

A. No. No. I don't know.

Q. Do you have an assumption though?

A. Well, I would assume, yes.

Q. And is that assumption -- did that assumption influence you in your dealings with Judge Nixon later on?

A. Yes.

MR. WEINGARTEN:

One second, Mr. Fairchild.

(Whereupon Mr. Weingarten had a discussion with Ms. Little)

MR. WEINGARTEN:

At this time, Mr. Fairchild, I'll ask that you step outside and we'll discuss amongst ourselves whether or not there is anything else that we want to explore.

(Whereupon Mr. Fairchild was excused and a discussion was had between the U.S. Attorneys and the Grand Jury and Mr. Fairchild was recalled to testify further)

MR. FOREMAN:

I must remind you that you are still under oath.

MR. FAIRCHILD:

Yes, sir.

Q. BY MR. WEINGARTEN:

Mr. Fairchild, about four more questions.

A. Yes.

Q. First of all, the Grand Jury has heard evidence about Mr. Porter's disappearance. Do you have any personal knowledge as to what happened to him?

A. Not no personal knowledge, no.

Q. Have you heard a bunch of rumors and a bunch of speculation about that?

A. Yes.

Q. All right. Are you in a position where you think you can do anything but guess as to what happened to Porter or would anything you say would just be a guess?

A. It would just be a guess, but there's some strong feelings in Hattiesburg.

Q. Are there strong feelings that foul play was involved?

A. Yes.

Q. Have you ever discussed this with Bud Holmes?

A. No.

Q. Have you ever discussed this with anybody that was actually at the scene or who has firsthand knowledge as to what happened to Porter?

A. No. I've discussed it with Bob Royals' wife and she said that -- I believe that Bob Royals or somebody had some instrument that they can get for $165 that would pick up a paper clip in 15 foot of water, but they couldn't get nobody to put up that money.

Q. And would that be relevant because the plane allegedly disappeared --

A. Yes.

Q. And you're suspicious that they never found it.

A. Yes.

Q. Okay. But you don't have any firsthand knowledge. What you are reporting is just a feeling on the streets of what happened.

A. Yeah. And the fact that I understand that he owed $365,000 and Bud Holmes was on the note and had credit life.

Q. So that if he died there would be insurance and some of the insurance would go to pay off the note.

A. Yes. Well, the insurance -- and I'm in the banking business -- when you make a loan for whatever it is, you get insurance for that total amount.

Q. So, what you are saying there is that if in fact Porter died, a beneficiary at the death would be Bud Holmes.

A. Yeah. Because he was on the note and he wouldn't have to pay them off -- the money -- the insurance money would go to pay the bank -- the note off to the bank.

Q. All right. And he was on the note with Bud Holmes.

A. Yes.

Q. The assignments that were made to Judge Nixon, how did they physically get from your office to Judge Nixon?

Did you hand carry them to him?

A. I didn't and I don't know whether someone -- from my office to Judge Nixon?

Q. Yes.

A. No, they went -- somebody from my office either carried them down there or Carroll came out there and picked them up.

Q. There was a question about the timing of certain events. Which came first, the assignment to Judge Nixon or this Dr. Shows business?

A. Oh, the Dr. Shows thing was at least 18 months and I think about three years before.

Q. All right. So that took place first.

A. Yes.

Q. Now, the Grand Jury is very interested in a conversation that you had with Judge Nixon and Bud Holmes that evening, okay?

A. Yes.

Q. At the time the conversation took place, is it fair to say that Drew had been indicted by the Forrest County Grand Jury and was awaiting sentence?

A. Yes.

Q. What did Bud Holmes say to you, again -- it's important -- as best you can recall?

A. The reason that I called Carroll to bring Judge

Nixon out there, we paid this $10,000 to Bill Porter and that was supposed to be the end of it, see? And but when he come out there with Bob Royals and come out there with Bob Royals and I, of course, was mad and told him that it was nothing but a damn blackmail and that I just wasn't going to pay off and that was about 2:00 or 3:00 o'clock and that night the phone rang and I answered i -- about 7:00 or :10 or :15 or about that time -- because it's about the time that I go to sleep and Judge Nixon says, "Wiley, you know that fellow that we was talking about this evening?" and I said, "Yes." He says, "I'm out at his house." He says,"And everything is going to be all right."

Q. What did you understand that to mean?

A. That he had talked with Bud and Bud was going to take care of it -- Drew's thing -- pass it to file. Now, it wasn't mentioned "pass it to file" but everything is going to be all right.

Q. And then what did Bud say?

A. And well, he got on the phone and he says, "Wiley, when this man asks me to do something, I don't ask questions. I just go ahead and do it."

Q. What did you understand that to mean?

A. That I could forget about Drew's case, it would be passed to the files.

Q. And in fact, following those conversations, what was the next event in the case that you can recall?

A. Well, it was passed to the files.

Q. Okay. Of course, there came a time that it was brought out back from the files as well; isn't that true?

A. Yes.

Q. And that, of course, has heard evidence that Judge McKenzie was brought to your office by Bud Holmes.

A. Yes.

Q. You testified about that the last time. Were you telling the truth about that last time? Did that in fact happen?

A. The evening before that Bud was going out of office -- do you just want me to cover his coming to the office?

Q. Well, I guess what I'm interested in is that you testified about this last time. Judge McKenzie was brought to your office early in the morning by Bud Holmes and this was in response to your getting angry about the case again and suggesting to somebody that you may go to the press about what had happened. Do you recall that?

A. Yes. I, in fact, had my son to get Carl Keppert to see if he couldn't get it in Federal Court and I figured we had just gone on and on and to get it in Federal Court and Washburn suggested Carl Keppert and so we called him. Well, the next morning when I got to the office, Mark Fairchild says, "Bud Holmes just called." And I said, "Well, if he calls, tell him I'm not in."

He says, "Well, he wanted to come out and see you." And I says, "Well, if he wants to see me and I'm here, don't tell him. Just tell him that I'm here."

And in about 10 minutes, the receptionist said, "Mr. Holmes is here to see you." And I said, "Tell him to come on back." So, he come on back to my office and he had --

Q. Had Judge McKenzie?

A. -- Judge McKenzie with him.

Q. The last time you testified about that part, did you tell the truth?

A. Yes.

Q. That happened.

A. Yes.

Q. And did you interpret Bud Holmes' bringing Judge McKenzie to your office as Bud saying that things would be okay with Drew's case?

A. Yes.

Q. So, it was more of the same, more of what happened when you spoke with Judge Nixon.

A. Yes.

MR. WEINGARTEN:

I think, Mr. Fairchild, that that completes all the questions that the Grand Jury had. We thank you for your appearance.

(Whereupon Mr. Fairchild's testimony concluded at 10:26 a.m.)

* * *

CERTIFICATE OF REPORTER

I, William M. Hoppock, Official Court Report for the United States Grand Jury for the Southern Dist of Mississippi, impaneled as a Special Grand Jury on July 18, 1984, and the order appointing the said William M. Hoppock, dated August 31, 1984 and filed wi the clerk of the United States District Court for the Southern District of Mississippi, hereby certify that foregoing 32 pages, and including this page, contain a true and correct transcript of the proceedings had i the Special Grand Jury as taken by me in stenotype and by tape recorder, on the date hereinbefore stated and later reduced to typewritten form to the best of my sk and ability.

Witness my signature and seal, this the 30th day of November, 1984.

William M. Hop

WILLIAM M. HOPPOCK

My commission expires 11/

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 42

EXHIBIT
Respondent's
Exhibit 42

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/4/84

REDDIT A. "DREW" FAIRCHILD, 1215 Windsor Drive, Hattiesburg, Mississippi, was interviewed at his request at his residence. He is aware of the identity of the interviewing agent.

(Earlier the same date, interviewing agent received a telephone call from JOHN BALTAR, an employee of FAIRCHILD CONSTRUCTION COMPANY in Hattiesburg, Mississippi, advising that DREW FAIRCHILD wanted to speak with interviewing agent.)

FAIRCHILD was advised by interviewing agent at the outset of the interview that interviewing agent is aware that FAIRCHILD is represented by Hattiesburg attorney KARL KEPPER and that under normal circumstances, any interview conducted with FAIRCHILD by the FBI would be done in the presence of Attorney KEPPER, unless FAIRCHILD specifically requested that no attorney be present during the interview. FAIRCHILD replied that he did not desire to have an attorney, including Mr. KEPPER, present during the interview and he accordingly signed an "Interrogation; Advice of Rights" form which includes a waiver of a right to counsel.

FAIRCHILD advised that recently his father, WILEY FAIRCHILD, had told him it would be better for DREW FAIRCHILD to be cooperative with Federal law enforcement authorities concerning matters now under investigation in Hattiesburg, Mississippi. DREW FAIRCHILD stated that his father had given him money to travel to Florida several weeks ago in an attempt to try to locate current fugitive ROBERT L. WATKINS, and FAIRCHILD stated that he missed WATKINS by about one week; however, has no idea of his current whereabouts. FAIRCHILD stated that he has learned that WATKINS' ex-wife, DEBBIE BAKER's (maiden name), parents have a shoe factory in Dresden, Tennessee (telephone 901/364-2202); however, DEBBIE BAKER is now residing somewhere in Nashville, Tennessee, as of about one week ago.

FAIRCHILD also advised that "DUFFY" NATHAN, one of the subjects previously arrested by the Mississippi Bureau of Narcotics (MBN) in the August 4, 1980, drug bust at Hattiesburg, Mississippi, may now be living in the Ft. Lauderdale, Florida, area.

Investigation on 11/29/84 at Hattiesburg, Mississippi File # Jackson 58B-109 -40

by SA K. P. WHITE-SPUNNER, JR./lwp Date dictated 12/3/84

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FD-302a (3-8-63)

Continuation of interview of REDDIT A. "DREW" FAIRCHILD , Page 2

Interviewing agent questioned FAIRCHILD as to his knowledge of the possible involvement of Hattiesburg businessman ROBERT ROYALS, in the August 4, 1980, drug incident at the Hattiesburg airport. FAIRCHILD replied that ROYALS was in fact involved in the matter inasmuch as he and FAIRCHILD were co-managers at the airport at the time the incident took place. FAIRCHILD stated that ROYALS' part in the plot was to refuel the plane at the airport after it landed.

In response to a question by interviewing agent, FAIRCHILD recalled that sometime prior to his being indicted by a Forrest County Grand Jury for his part in the August, 1980, drug seizure, BOB ROYALS came to him and told him that he and DREW FAIRCHILD's attorney, WILLIAM F. PORTER, had traveled to Montgomery, Alabama, and on that trip PORTER had remarked to ROYALS that he was having difficulty getting his attorney's fees from DREW FAIRCHILD and said something to the effect that if FAIRCHILD's father would get off of some of his money, that his son, DREW, would "walk." DREW FAIRCHILD recalled that BOB ROYALS came to him and told him about Attorney PORTER's remark and asked DREW whether he felt that he (ROYALS) should relay the comment to WILEY FAIRCHILD. DREW FAIRCHILD told ROYALS he did not think it would be a good idea, however, about one week later he found out that ROYALS had in fact told WILEY FAIRCHILD about this. (DREW FAIRCHILD stated this happened just before his indictment by the Forrest County Grand Jury in August of 1981.)

FAIRCHILD was questioned by interviewing agent concerning his knowledge of an MBN report of the August, 1980, narcotics seizure and whether or not BOB ROYALS ever received a copy of this report. FAIRCHILD replied that he felt he could adequately answer this question in that he had been given what he believed to be a copy of the MBN report by his attorney, WILLIAM PORTER, who had apparently received it from Forrest County District Attorney PAUL "BUD" HOLMES. FAIRCHILD stated that he had read through the report and had the copy on the front seat of his car one day when he picked up BOB ROYALS to go to get some lunch. While ROYALS was in his car, DREW FAIRCHILD showed the report to him and pointed out several places in the report where ROYALS' name was mentioned. FAIRCHILD stated that ROYALS read the sections pertaining to him but did not take the report. FAIRCHILD stated that he knows that BOB ROYALS is a friend and former employee as a copilot for BUD HOLMES and ROYALS could easily have gotten a copy of the report from HOLMES, in FAIRCHILD's opinion.

Concerning BOB ROYALS' relationship with WILEY FAIRCHILD, DREW FAIRCHILD advised that it is common knowledge around Hattiesburg that if anyone wants to get a message to WILEY FAIRCHILD, all they have to do is tell BOB ROYALS. He stated that ROYALS' wife had

Continuation of interview of REDDIT A. "DREW" FAIRCHILD , Page

a father who lived in Sanford, Mississippi, and had been in some trouble one time but WILEY FAIRCHILD had helped the man and for this reason ROYALS and his wife had felt close to WILEY FAIRCHILD.

Concerning CHARLES MALONE (another subject involved in the August, 1980, drug incident), FAIRCHILD stated he heard rumors that MALONE was recently arrested in Louisville, Kentucky, on a parole violation warrant out of Delray, Florida; however, he had no details concerning this arrest.

FD-302 (REV. 3-8-7

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RESPONDENT'S EXHIBIT 43

EXHIBIT
Respondent's
Exhibit 43

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 12/12/84

DREW FAIRCHILD was advised of the identities of the interviewing Agents and the identity of the U. S. Department of Justice Attorney JAN LITTLE. FAIRCHILD was asked if he desired to have his attorney present prior to any questioning. FAIRCHILD indicated he would willingly consent to an interview without his attorney present after which he provided the following information:

He first met DUFFY NATHAN in early 1980, having been introduced to him by his brother, BUDDY YOCHIM, who lives in Florida. During the spring of 1980, FAIRCHILD met with NATHAN, ROBERT WATKINS, and CHARLES MALONE concerning the importation of marijuana into Hattiesburg, Mississippi, utilizing the HATTIESBURG MUNICIPAL AIRPORT. During this period of time, FAIRCHILD and his partner, ROBERT ROYALS, operated an airport service company at this particular airport.

During the following months in 1980, three attempts were undertaken by this group to bring marijuana into the airport. The first two attempts were initiated in the spring of 1980, during the months of April and May. The first attempt failed due to a lack of funds to secure the marijuana in Jamaica. The second attempt, approximately three weeks later, was aborted when BOB WATKINS and NATHAN had to ditch the airplane in Jamaica for unknown reasons. The third effort was initiated in late July, 1980, and was the attempt which resulted in the narcotics bust at the airport on August 4, 1980.

The third attempt involved an airplane which had been stolen in Florida and flown to the HATTIESBURG MUNICIPAL AIRPORT (HMA) for storage prior to making its run to Colombia for narcotics. They stored the airplane in his company's hangar after the pilots had called in during their approach asking for DREW FAIRCHILD by name. RUSTY ROYALS, ROBERT ROYALS' son, had called FAIRCHILD, informing him of this matter. The following day ROBERT ROYALS told FAIRCHILD people were asking too many questions and the airplane should be moved to another location. FAIRCHILD met with NATHAN and WATKINS, the pilots, and instructed them to fly the airplane to Laurel, Mississippi, where they left the following day for Colombia. On Thursday, July 31, 1980, FAIRCHILD was in Destin, Florida, when the plane was to return to Hattiesburg with the marijuana. The following day, upon his return, he was advised by ROBERT ROYALS that the

Investigation on 12/5/84 at Hattiesburg, Mississippi File # JN 58B-109 -420

wjf
by SA K. P. WHITE-SPUNNER, JR., and
SA WILLIAM J. FEIN:WJF:mc Date dictated 12/10/84

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FD-302a (3-8-83)

JN 58B-109

Continuation of interview of DREW FAIRCHILD , Page 2

airplane had not arrived as scheduled. He and ROYALS drove out to the stash house which FAIRCHILD had secured for storage purposes and while driving near the house, they met CHARLES MALONE. MALONE informed them that the arrangements had been delayed but efforts were continuing to bring the plane into Hattiesburg as soon as possible. He was later informed by MALONE that the shipment would arrive on Sunday, August 3, 1980. The first time he was aware that a bust had occurred was on August 4, 1980, in the early morning.

FAIRCHILD indicated that through these entire sequence of events, he kept his partner, ROBERT ROYALS, abreast of what was happening. He indicated ROYALS was fully cognizant of the importation of the drugs and when FAIRCHILD first approached ROYALS apprising him of the deal, ROYALS told him "go for it." FAIRCHILD advised he and ROYALS agreed to equally share the $25,000 per shipment fee which was to be paid to FAIRCHILD by the conspirators. FAIRCHILD further indicated that his job was to handle the details and the financial end of the transactions, while ROYALS was to be at the airport and expedite the refueling of the airplanes. FAIRCHILD indicated ROYALS was present at the airport during the second and third attempts to import the drugs and participated in modifying the airplane by removing the seats for the second attempt.

A few weeks after the bust, ROYALS urged FAIRCHILD to make a deal with BUD HOLMES, the local District Attorney. FAIRCHILD first sought the counsel of Hattiesburg Attorney CARROLL INGRAM, who asked FAIRCHILD if he was the biggest dope-dealer in the state and did he have money. A short time later, at the urging of Hattiesburg Attorney WILLIAM PORTER, FAIRCHILD met with BUD HOLMES, who also asked FAIRCHILD if he had money. HOLMES also inquired if WILEY FAIRCHILD was going to assist him in this matter. BUD HOLMES indicated to FAIRCHILD that he would make an appointment for FAIRCHILD and his Attorney, PORTER, to meet with U. S. Attorney GEORGE PHILLIPS. A few days later, on November 19, 1980, an agreement was reached on a federal plea whereby FAIRCHILD agreed to testify against the conspirators and cooperate with law enforcement officials. FAIRCHILD met with FBI Agents concerning the stolen airplane utilized during the bust and with DRUG ENFORCEMENT ADMINISTRATION (DEA) officials concerning future importations of drugs, but FAIRCHILD indicated that he was not very helpful to them due to his lack of knowledge in these areas.

FAIRCHILD indicated he had many arguments with PORTER concerning attorneys fees. One day PORTER asked FAIRCHILD for $10,000 and when FAIRCHILD could not pay, PORTER asked him if

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Continuation of interview of DREW FAIRCHILD , Page 3

WILEY would pay the fee. FAIRCHILD informed PORTER that WILEY was upset with FAIRCHILD over the situation and would not pay PORTER. Later FAIRCHILD was told by BOB ROYALS that PORTER informed him that WILEY had better come up with the money or the FAIRCHILD name would be splattered across the newspapers. ROYALS also told FAIRCHILD that PORTER had informed him that FAIRCHILD and ROYALS may be indicted by BUD HOLMES on local drug charges for the bust of August 4, 1980. FAIRCHILD told ROYALS that there was no truth in that statement but two weeks later in August, 1981, DREW FAIRCHILD was indicted on the local charges.

The day after learning of the indictment, FAIRCHILD met with BUD HOLMES and his assistant, KATIE MATISON. HOLMES told him he had been advised by GEORGE PHILLIPS and WILLIAM PORTER that there was no federal agreement pending and therefore HOLMES had decided to indict FAIRCHILD and the pilot, ROBERT WATKINS.

A short time after the meeting with HOLMES, FAIRCHILD was told by WILLIAM PORTER that ROBERT ROYALS had been protected by being kept out of the focus of the local grand jury.

DREW FAIRCHILD advised that although he felt that PORTER had betrayed him, WILEY advised him to retain PORTER as his Attorney because BUD HOLMES was in control of the situation with a figurative gun pointed to DREW's head.

FD-36 (Rev. 8-26-82)

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FM JACKSON (58B-109) (P)

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UNCLAS

WALTER LOUIS NIXON, JR., CHIEF U.S. DISTRICT COURT JUDGE, SDM; WILEY FAIRCHILD; BRIBERY - USDC - PUBLIC CORRUPTION; OO: JACKSON.

JACKSON INVESTIGATION INVOLVES ALLEGATIONS HATTIESBURG, MISS., BUSINESSMAN FAIRCHILD "GAVE" JUDGE NIXON ROYALTY INTEREST IN THREE GAS WELLS FOR NIXON'S INFLUENCE IN A DRUG CASE INVOLVING FAIRCHILD'S SON. ONE ELEMENT OF EVIDENCE JACKSON IS TRYING TO VERIFY INVOLVES A VISIT MADE TO THE FEDERAL PRISON FACILITY, MAXWELL AIR FORCE BASE (AFB), ALABAMA, DURING EITHER 1981 OR 1982 BY ROBERT R. ROYALS AND/OR ATTORNEY WILLIAM F. PORTER TO THEN INMATE JOSEPH E. KROHN. INFORMATION DEVELOPED BY JACKSON INDICATES THAT ROYALS AND PORTER DROVE TO MAXWELL AFB FROM HATTIESBURG

① - Jackson
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PAGE TWO DE JN 58B-109 #002 UNCLAS

AND DURING THE AUTOMOBILE TRIP DISCUSSED THE DRUG CASE AGAINST WILEY FAIRCHILD'S SON (DREW FAIRCHILD). ATTORNEY PORTER, WHO REPRESENTED DREW FAIRCHILD, ALLEGEDLY MADE REMARKS TO ROYALS ABOUT GETTING MORE MONEY FROM FAIRCHILD'S FATHER. FOLLOWING THIS TRIP TO MAXWELL AFB, ROYALS ALLEGEDLY WENT TO WILEY FAIRCHILD AND PASSED ON ATTORNEY PORTER'S REMARKS WHICH WILEY FAIRCHILD INTERPRETED AS A THREAT TO EXTORT MORE MONEY FROM HIM FOR HIS SON'S DEFENSE.

IN ORDER TO VERIFY THE ABOVE VISIT TO INMATE KROHN, JACKSON TELEPHONICALLY CONTACTED THE FEDERAL RECORDS CENTER, EAST POINT, GEORGIA, DURING NOVEMBER, 1984, AND SUBSEQUENTLY JACKSON WAS FURNISHED XEROX COPY OF BUREAU OF PRISONS INFORMATION FORM LISTING NAMES AND ADDRESSES OF PERSONS AUTHORIZED TO VISIT THEN INMATE JOSEPH E. KROHN. ROYALS' NAME APPEARS ON THIS LIST AS NUMBER SEVEN. THE REVERSE OF THIS FORM IS AN APPARENT LOG OF VISITS TO KROHN WHICH INDICATES MONTH AND DAY OF VISIT BUT FOR SOME REASON DOES NOT INDICATE THE YEAR. BESIDE THIS ENTRY UNDER "CODE" COLUMN APPEARS A NUMBER WHICH APPARENTLY CORRESPONDS TO THE AUTHORIZED VISITOR ON THE FRONT OF THE CARD. THE VISITOR'S

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Date ____________

PAGE THREE DE JN 58B-109 #002 UNCLAS

CARD COPY IN JACKSON POSSESSION APPEARS TO HAVE BEEN PREPARED FEBRUARY 12, 1981, AND THE VISIT DATES ON THE REVERSE SIDE SEEM TO INDICATE VISITS TO INMATE KROHN FROM JANUARY, 1981 THRU JUNE 6, 1982. JACKSON HAS DETERMINED THAT ON JUNE 22, 1982, KROHN WAS TRANSFERRED FROM THE MAXWELL FACILITY TO THE SALVATION ARMY "HALF-WAY HOUSE" IN PASCAGOULA, MISSISSIPPI, WHERE HE REMAINED UNTIL RELEASED IN OCTOBER, 1982.

IT IS IMPORTANT TO DETERMINE WHETHER KROHN WAS VISITED AT THE "HALF-WAY HOUSE" DURING THE ABOVE PERIOD. INQUIRY AT THAT LOCATION DETERMINED ALL FORMER INMATE RECORDS INCLUDING VISITORS' RECORDS ARE RETURNED TO BUREAU OF PRISONS AND WOULD BE MAINTAINED WITH THE FORMER PRISONER'S FILE NOW LOCATED AT FEDERAL RECORD CENTER, EAST POINT, GEORGIA.

ATLANTA OFFICE AT FEDERAL RECORD CENTER, EAST POINT, GEORGIA: REQUESTED TO PHYSICALLY EXAMINE FILE OF FORMER MAXWELL AFB INMATE JOSEPH E. KROHN, REGISTERY NUMBER 01368-095, RECORD GROUP NUMBER 129, ACCESSION NUMBER 830011, AGENCY BOX NUMBER 8 OF 17, RECORD CENTER LOCATION NUMBER E0681845.

Approved: ____________ Transmitted ____________ Per ____________
(Number) (Time)

U.S. Government Printing Office: 1984—421-013/[illegible]

FD-36 (Rev. 8-29-82)

FBI

TRANSMIT VIA:
☐ Teletype
☐ Facsimile
☐ ____________

PRECEDENCE:
☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:
☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS
Date ____________

PAGE FOUR DE JN 58B-109 #002 UNCLAS

OBTAIN COPY OF ALL VISITORS RECORDS FOR PERIOD OF KROHN'S CONFINEMENT AT MAXWELL AFB AND AT THE SALVATION ARMY "HALF-WAY HOUSE" IN PASCAGOULA, MISS. OBTAIN DATES OF KROHN'S CONFINEMENT AT EACH FACILITY. RESULTS OF REQUESTED REVIEW SHOULD BE FURNISHED JACKSON PRIOR TO NEXT SESSION OF ONGOING FEDERAL GRAND JURY NOW SET FOR [redacted]

J Rule 6E FRCP

BT

#002

Approved: ____________ Transmitted ____________ (Number) (Time) Per ____________

U.S. Government Printing Office: [illegible]

EXHIBIT
Respondent's
Exhibit 45

Washington, D.C. 20530

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 45

2/21/85

Joel Blass, Esq.
Post Office Box 160
Gulfport, Mississippi 39502

Dear Mr. Blass:

As you know the Department of Justice has been conducting an investigation of official corruption in the Southern District of Mississippi. In connection with that investigation we have examined the actions of your client, Carroll Ingram, and his involvement in a royalty transfer between Wiley Fairchild and Judge Walter Nixon. Mr. Ingram has testified before the grand jury in this regard.

Based on a comprehensive review of the facts marshalled to date in this investigation, we have no present intention of pursuing any criminal charges against Mr. Ingram and we consider Mr. Ingram to be a fact witness. We request that he reappear before the grand jury on February 22, 1985 with all of the rights and responsibilities that normally inhere to a witness of his status.

Sincerely,

Reid H. Weingarten
Trial Attorney
Public Integrity Section
Criminal Division

EXHIBIT
Respondent's
Exhibit 46

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

SPECIAL GRAND JURY IMPANELED July 18, 1984
(A QUORUM PRESENT)

Transcript of the testimony of:

PAUL H. "BUD" HOLMES

Taken on Thursday, February 21, 1985 at 10:40 a.m.

APPEARANCES:

REID WEINGARTEN
JAN LITTLE
U.S. Attorneys
Public Integrity Section
U.S. Department of Justice
Washington, D.C. 20530

FOREMAN:

DAVID MITCHELL WARD, SR.

ASSISTANT FOREMAN:

DOROTHY MAE CLAYTON

REPORTED BY:

WILLIAM M. HOPPOCK
Official Reporter per Order
Dated August 31, 1984

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 46

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MR. WEINGARTEN:

For the record, it's 10:40, and we will have Mr. Holmes next.

PAUL H. "BUD" HOLMES

Having been called to testify and having
first been duly sworn, was
questioned and testified as follows:

MR. WEINGARTEN:

Good morning, sir.

THE WITNESS:

Good morning.

MR. WEINGARTEN:

How are you doing?

THE WITNESS:

Fine.

MR. WEINGARTEN:

And for the record, your name, please.

THE WITNESS:

Paul H. Holmes.

MR. WEINGARTEN:

Spell your last name, please.

THE WITNESS:

H-O-L-M-E-S.

MR. WEINGARTEN:

For the record, Mr. Holmes, my name is

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Reid Weingarten. Seated to my right is Jan Little. We are attorneys from the United States Department of Justice. The ladies and gentlemen before you are members of the Federal Grand Jury seated here in the Southern District of Mississippi.

You have appeared before this group before, have you not?

THE WITNESS:

Yes.

MR. WEINGARTEN:

And subsequent to your appearance, things have happened in the investigation that cause us to want to ask you more questions.

THE WITNESS:

All right.

MR. WEINGARTEN:

And you have certain rights and privileges. As an attorney, I am certain that you understand them, but I must explain them to you and you must acknowledge your understanding for the record.

THE WITNESS:

All right.

MR. WEINGARTEN:

You have the right not to answer any question the answer to which might tend to incriminate you; do you understand that?

THE WITNESS:

(no response)

MR. WEINGARTEN:

You have to answer yes or no.

THE WITNESS:

I'm sorry. I thought you were going to read them all to me. Yes, I understand.

MR. WEINGARTEN:

You have a right to an attorney. Your attorney can't be present in the Grand Jury Room with you, but of course your attorney can wait outside and if at any time during the proceeding you wish to speak to your attorney, you are free to do that.

Do you have an attorney here with you today?

THE WITNESS:

No.

MR. WEINGARTEN:

Do you wish to have an attorney?

THE WITNESS:

No.

MR. WEINGARTEN:

You understand, of course, if a witness can't afford an attorney and wishes an attorney, the Federal government will provide one; you understand that?

THE WITNESS:

Yes.

MR. WEINGARTEN:

You understand that anything a witness says in the Grand Jury can be used against that witness in a subsequent proceeding.

THE WITNESS:

I understand.

MR. WEINGARTEN:

You understand, of course, that if a witness testifies to a material falsehood, that witness could be prosecuted for perjury.

THE WITNESS:

I understand that.

MR. WEINGARTEN:

Are you prepared to proceed?

THE WITNESS:

Yes, sir. I am.

EXAMINATION

BY MR. WEINGARTEN:

Q. Now, it will be my goal not to be redundant and not ask questions that I asked before. That may happen, so please be tolerant.

I would like to ask first if you know a man by the name of James Dukes.

A. I do.

Q. And how do you know him?

A. He was my law partner and prior to that I knew him. We grew up in Hattiesburg together. I've known him virtually all my life.

Q. When did you have a business relationship with him in terms of a law partnership?

A. I got out in '58 and he got out in '59. It would be in '59.

Q. And when did that relationship terminate?

A. Let's see. I guess you could say 1979 or '80, when I became District Attorney.

Q. While you were D.A., did you retain a residual interest in the law practice?

A. No.

Q. Is it fair to say that the law practice was terminated upon your becoming a D.A.?

A. That's correct.

Q. And has this be restored since you stopped being D.A.?

A. It has not. I'm still in the same building -- he and I own the building together -- but we have separate offices upstairs. There's no connection or relationship. As a matter of fact, I've got cases against him at the present.

Q. Was it a normal legal partnership in that the legal fees from the profits of the firm would be split between the two of you prior to your becoming D.A.?

A. Yes.

Q. Are you familiar with Mr. Dukes' handling of a case involving a drug bust in Vicksburg?

A. Vaguely. I can tell you what I know about it. I wasn't involved in the actual handling of it.

Q. Why don't you tell what you know about it in - general fashion, and I'll ask any questions that come out of that.

A. All right. I was in Jackson with Bill Porter -- ironically, the same man that got killed with me -- and Bill was getting out of the District Attorney's race and had to go to Jackson to disqualify himself before the Democratic Executive Board so his name wouldn't be on the ballot.

Jimmy Finch, who was running, wanted to get Bill out of the race so that he would not have an opponent and Bill agreed to get out.

I took Bill up to Jackson, and while I was in Jackson waiting, I went down to Charlie Sutherland's office, who was the Marshal --

Q. Charlie Sutherland?

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A. Charlie Sutherland. Charlie and I had been friends -- his brother and I had been friends for years prior to that. As a matter of fact, ever since my daddy got killed, his brother and I were real good friends -- Charlie was in the Army at the time.

While I was up there with Charlie, some people came in to make an initial appearance or whatever it was before the Magistrate and different lawyers around there were being associated, you know, in the cases and Bill -- as best I remember -- got one, and I was associated -- they used my name, you know, with one of them to go into Court.

I gave the people my card, and I guess some very short time after that, I got a call from one of them saying that they wanted to see about getting me and I said, "Why don't you use my partner." He was really the criminal lawyer and I didn't fool with criminal work.

That was the extent of my involvement in it.

Q. So you had no further role in the case as a lawyer.

A. No, sir.

Q. Did you follow Mr. Dukes' handling of the case?

A. Just, you know, just like you would from talking around the office.

Q. Did you ever meet a Mr. Ravkind from Dallas?

A. No. Not that I know of.

Q. Do you know the name "Billy Ravkind"?

A. I've heard it, yes.

Q. You don't remember meeting him?

A. To my knowledge I've never -- unless he was in, just like you do like somebody sitting around down in the Coffee Room or sometimes in the afternoon after 5:00 o'clock, sometimes you sit around and have a drink and there could have been associate attorneys in there, but I wouldn't know him if he was on this Grand Jury.

Q. Who was Mr. Dukes' client in that case; do you recall?

A. No, sir.

Q. Do you know a man named Paul Finefrock?

A. I've heard the name, because I remember some kind of offhand kind of name because it was a type of name that I used to hear.

Q. Do you remember him coming to the law office?

A. No, sir. I mean, I never met him.

Q. What about Billy Geittmann?

A. I've heard that name.

Q. Did you ever meet him?

A. To my knowledge I didn't.

Q. Do you remember any of the lawyers or the clients in this case coming to your office with cash?

A. No, sir.

Q. Do you know how Mr. Dukes got paid in this case?

A. I assume he got paid, yes, sir. Probably cash. You know, when you handle a dope case, they generally pay you in cash so I assume he got cash.

Q. Do you know how much?

A. I have no idea.

Q. You would have had access to those records at the time, wouldn't you?

A. I don't remember. I'm sure that Jeanie Hamilton kept up with it. She was, you know, the lady that was out front.

The only time I ever looked at the books down there was whenever I needed to go to the bank to borrow some.

Q. I presume that you would receive your remuneration, and part of it was from the fees generated by the partnership.

A. Yes. Of course, you go back and check our books on that, we never -- to my knowledge -- ever had like a monthly draw or, you know, like you normally see. She would take something like $500 a month over into our personal checking account, then Jim and I would go into the farm together and things like that together that, you know, she would keep up with it and make payments. And from time to time we might, you know, draw like $5,000, you know, apiece.

The most of the stuff we had, you know, we owed so darn much on the notes that there wasn't a whole lot of money left to keep up with those.

Q. Do you have a specific recollection of how much the fee was that Mr. Dukes --

A. I have no idea.

Q. Do you have any recollection at all?

A. No.

Q. Any converations with Mr. Dukes about that subject?

A. Since this Grand Jury has been in town I've talked to him about it.

Q. Putting that aside --

A. Okay.

Q. -- and back then, and I know we are talking about the late '70's --

A. I have no idea.

Q. Did you ever go to Las Vegas in connection with that case?

A. No, sir.

Q. Did you ever go to Las Vegas with Paul Barrett?

A. No.

Q. Did you ever go to Las Vegas with Mr. Ellis, who is presently a judge from the Vicksburg area?

A. No, sir.

Q. Now, the Grand Jury has learned that you have an interest in Vardaman Buick.

A. That's correct. I own a third.

Q. Were cars provided to any of the lawyers or were cars provided to anyone in connection with the Vicksburg case that you know of?

A. No, sir.

Q. To your knowledge, did Mr. Barrett get a car in connection with the case?

A. No, sir.

Q. How about Mr. Ellis?

A. No, sir.

Q. Now, do you know a Mr. Royals -- Bob Royals?

A. I know Bob Royals, yes, sir.

Q. What is your relationship with him?

A. Just he flew copilot for awhile for us.

Q. What does that mean?

A. Okay. If you have a jet, you have to have -- to be legal -- you have to have a qualified copilot to go along with your regular pilot. I remember I've got a picture of him. I know we flew up to Chicago when Walter Payton and Robert Brazile were playing against each other and I got a picture of him, because I represented both, and I know Bob flew that trip for us.

Q. I take it there was a period of time that you owned a jet.

A. Pardon?

Q. There was a period of time I take it when you owned or partially owned a jet.

A. Yes, that's correct.

Q. And Mr. Royals was employed by you?

A. On a per flight basis. It seems like we would pay him $100, you know, per flight for it.

Q. How many flights did he make for you?

A. I know that one, and I'd say that Phil Bass would pick him up, you know, from time to time and he'd use him, and just different ones, you know, out around the airport.

Q. Did Royals ever fly you to Las Vegas?

A. To my knowledge, no.

Q. Would you use him regularly?

A. I -- the only time that I can remember that I can say he went on was that one trip. Now, I was going to say that Phil Bass, who was our chief pilot who kept the plane, used him more than one time, but Bob never was full-time. I think Bob was a rural mail carrier at that time. I think.

Q. What was that?

A. A rural mail carrier.

Q. I see. Did you have any other business relationships with him?

A. No, sir. Not that I can think of.

Q. When was the last time that you saw him?

A. Up here at the Grand Jury.

Q. Before that?

A. I want to say he came by the office one day when I first went in as District Attorney with Bill Porter.

Q. In connection with --

A. And I want to say that. I mean, what I'm saying is -- you know, you're asking me, you know, what it was and that would be 5 years ago.

Q. In connection with what?

A. I don't recall.

Q. Was it the Hattiesburg bust?

A. No, sir. Wasn't that.

Q. Did he ever discuss the Hattiesburg bust with you?

A. To my knowledge, that day when he came in with Bill, I told Bob that there was a lot of talk, you know,

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around Hattiesburg out that, that I told Bill there was a lot of talk out there, and that Bill I knew represented him out there and that if there was anything going on he'd better get his act straight.

You know, of course, he denied to me violently anything going on. I said, "Bob, I just know that there's a lot of street talk, you know, going on and they got this boy Dossett, you know, around here that everybody is looking at." You know, he was hanging around the airport out there, and I said, "I'm just telling you, you know, that right now there's just an awful lot of talk about it going on."

I do know that Raymond Dossett has a propensity for doing all that stuff. That's about the only thing that I can remember.

Q. Is that before or after you indicted Drew?

A. I'd have to say it had to be before.

Q. Did you ever have any subsequent conversations with Royals?

A. Not to my knowledge, no.

Q. Did you have any knowledge of Royals going to Wiley Fairchild for money in connection with the Hattiesburg bust?

A. No.

Q. Did you send him to do that?

A. No, sir. No way.

Q. You mentioned when you last testified about an 18-wheeler or a group of trucks that came into Hattiesburg that were stopped by Don Castle.

A. That's right.

Q. What was Castle's position at that time?

A. Highway patrolman.

Q. And what was the ultimate disposition of the case?

A. They paid $400,000 to us, we kept the trucks -- the vehicles -- all of them pled guilty to a felony.

Q. And was there an agreement as to the sentencing?

A. They got suspended sentences.

Q. And there were seven defendants.

A. Yes, sir. And let me say this for the Grand Jury:

After sentencing, I had the head of the Highway Patrol, I had the -- I had 35 different law enforcement officers out in the courtroom in a circle, including the United States Attorney's recommendation from Louisiana, and the United States Attorney, George Phillips was the County Attorney at the time -- and we had all 35 law enforcement officers involved in that drug bust making the recommendation, including Tom Dials who was at that time with the Bureau of Narcotics.

At a meeting in Jackson when I was up there on a seminar for narcotics, Tom Dials got me a standing ovation for the handling of that case.

What had happened was the highway patrolman had messed up severely --

Q. How did he mess up?

A. When he made the arrest, he went up and stopped them without getting a search warrant or anything and threw a gun on him and made him go around and open up the back end and nobody wanted to touch it then.

The D.E.A. said, "No, that's not our baby."

Q. Okay. Who in the D.E.A. said that?

A. Whoever it was that was up there that morning.

Q. Was it Tom Dials?

A. No, no, no. Tom at that time was head of the Mississippi Bureau.

Q. Okay.

A. And Tom told me on the phone that the Bureau wasn't going to get involved because the -- I'm not going to use the word -- D.E.A., and he was real mad with the D.E.A. because he had gotten fired or whatever happened to him. He was no longer with the D.E.A., and so Tom would not let the Mississippi Bureau get involved because he knew there was going to be a lot of egg on everybody's face.

Q. All right. Did Castle -- had he been notified

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by someone in Louisiana that --

A. No, sir. He was drinking coffee down at Hamilton's Truck Stop, which is down here on Highway 98 and 49 -- some of you all from around here know where Hamilton's is -- he was sitting there and the people who had been watching this truck for about like 5 or 6 weeks, you know, keeping it under surveilance -- two trucks -- and one truck went on -- when it came across from Louisiana -- and when it got into Mississippi, one of them went straight and the other one turned up 49.

Well, they pulled the truck over down that went straight and it was empty, so they decided that maybe this one was empty, too, so they made the decision to go ahead and pull it over.

They were wanting to go to where the truck was headed hoping that it would go to the catch. They thought, you know, that it was headed up to someplace around Bogalusa, Louisiana, but it didn't.

Anyway, you know, to answer the question of what happened --

Q. Did Castle indicate that anyone had consented to the search?

A. No.

Q. Did Castle acknowledge that he had made a mistake?

A. Everybody that morning did, because what happened

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is when I got to work, they already had the t.v. station and everybody up in the truck filming and it was all on t.v. and that was before a search warrant or anything had been obtained.

Q. We're certainly not going to have a legal --

A. The agreement --

Q. Who agreed?

A. Pardon?

Q. Who agreed that the case should not be prosecuted in the --

A. Well, Gene Walters -- I could go get you my file on the United States Attorney records that I got from Louisiana, you know, the D.E.A. out of Louisiana --

Q. Was that Mr. Voight out of Louisiana?

A. I don't remember if it was Mr. Voight that I got the letter from. It could have been, but I do know that I contacted all the agents on it and I knew that there was going to be a lot of static on it.

Q. Okah.

A. And there was.

Q. Just so we're clear. The U.S. Attorney from New Orleans recommended a deal wherein these people would get probation and a fine.

A. Yes.

Q Did the U.S. Attorney in Mississippi make such

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a recommendation?

A. I don't recall.

Q. Did the F.B.I. get involved?

A. Yes. I want to say Jerry Ripley came over there. I believe he did.

Q. And did he concur --

A. I can't remember if he did. I do know that I checked primarily with Dial and -- who was head of the Mississippi Bureau -- and I checked with the -- all the local people and everyone of them concurred.

Q. Did the D.E.A. concur?

A. I got the letters. I'm almost sure I do.

Q. Would the letter be in the file?

A. Should be, yes.

Q. Who helped represent these defendants?

A. Okay. Al Binder was one of them. Al Binder is the same man you know about that handled the Wayne Williams case over in Atlanta, a lawyer out of Miami who was a former United States Attorney and I'll recall his name in just a minute; but those are the two main ones that I remember.

Q. Do you know a man by the name of Lee Bowman?

A. He represented Watkins. Bowman does, yes. He represented Watkins who was the pilot.

Q. Did he have anything to do with the 18-wheeler?

A. If he did, I had no knowledge of it.

Q. You had no contact with him?

A. No.

Q. Did Mr. Dukes represent any of these people?

A. No, sir.

Q. How was the cash for the fine ferried to Mississippi or brought to Mississippi?

A. It came in on a private airplane that they brought in and turned it over to the clerk's office, and it was carried up to the First Mississippi National Bank, you know, where it was all counted out. I remember them talking about it being wet and mossy and stuff like that. Marianne Brown, who is the clerk over here, got the whole thing.

Q. It was $400,000?

A. Right. Plus costs and whatever. Now, we kept the trucks and sold them and that money was turned into the County.

Q. All right. Are you certain that Mr. Dukes wasn't involved in this at all?

A. Uh-huh.

Q. And you're certain that Mr. Bowman wasn't involved in this at all.

A. The only two lawyers that I had any knowledge whatsoever was a lawyer out of Miami, and it wasn't Bowman,

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and the lawyer out of Jackson, who was associated in the thing, Mr. Al Binder.

Now, I want to say maybe Russell Moore, who was Al Binder's partner. I think Russell might have come down and I want to say that Don Rogers, who was a local lawyer either came in on a -- for some, you know, for bond or something maybe.

Q. How much cash was brought up from Florida, do you know?

A. I never did see it.

Q. You never saw it?

A. No.

Q. Did you ever see any of the money that was brought up from Florida?

A. Not one dime of it. Let me say this: This has been checked out because a Senator from Montgomery County named Pittman wrote in the paper that he had "credible evidence" that something was done, you know, with the money that it never got to the County.

So I subpoenaed him to our Grand Jury and I demanded that the Ethics Commission in Jackson -- Peer Committee -- come down and make an investigation.

They came down and made a cursory investigation on it, came back and said that they were satisfied and I said, "Nope. I demand a full investigation." They

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came down and made a full investigation and made a complete report and said everything was done properly.

Q. What did they review, whether or not the money was actually received --

A. As far as I know they went to the bank and went to the clerk's office, and went and checked all the records of everything from A to Z.

Q. Did you ever have a conversation with Castle about the case?

A. Yes.

Q. And what was the nature of that conversation?

A. Well, Nothing. It wasn't a hard case. Just something like, "Don, what happened?" "Well, I just overreacted." And something to that effect.

Q. Did he basically admit or acknowledge that he screwed up?

A. I don't think he just stood up and said, "It's my fault." Or anything like that. What was done was done, and there was no point in fussing or raising Cain.

Q. And what he did, and of course you'll correct my characterization, is he made an improper search of the truck.

A. That was our opinion. All of our opinions. See, what happened was they never got a doggone search warrant. You got a case in Mississippi that says that whenever you stop someone, you can make what we call a "protective search" right up there in the front seat to see if they have a weapon up there where the eyes can see.

Now, if you want to go further, unless you have reason to believe that a human being would be in the back, you know, bodily harm, if you want to go further and look into it, then you must go get a search warrant and come back and look into it.

Q. What if the driver consents?

A. Well, I'm sure if the driver consents, you have a right to let the driver go back and do it.

Q. Was there any evidence in this case that the driver did consent to the search?

A. It never came up at all. The first thing I talked with them there -- when the defense attorneys came in -- was how are you going to get it into evidence and they were getting ready to go file a case -- habeas corpus case -- in Federal court, you know, they just walked off laughing about it.

Q. Not to belabor the point, but I just want to make sure we are clear on this point. Primarily, the support for your position came from the U.S. Attorney in Louisiana -- New Orleans I take it --

A. Before I did it, I talked with Dempsey Lawler, who was the head of the local police department. I checked with --

Q. What was his response?

A. He concurred. All these people came to court with me.

Q. Okay. Who else.

A. I checked with Jimmy Walters, who was our sheriff --

Q. He was --

A. Sheriff. Sheriff of Forrest County, the county that it happened in, I checked with the head of the Highway Patrol here locally -- I want to say it was Dickerson, you know, who came up there; I checked with the arresting officer, who was Castle, and he recommended it; checked with people out of Louisiana, it seems like the Louisiana State Trooper was up there --

Q. Okay.

A. Could have been the St. Tammany Perish Sheriff's Deparment in it. I know I got a letter from the United States Attorney down in the parish they were in -- whether that was Voight or not, I don't know.

Q. And again, it's your testimony that everybody agreed with the plea dispostion that you brought to court.

A. Everybody, to my knowledge, agreed with it.

Q. Okay. Now, you testified extensively about the handling of Drew's case, and I won't belabor that. I just have one or two questions.

A. All right.

Q. Just for your timeframe, the bust was August of '80, and there was memo of understanding between the Feds and Drew that you brought to Court last time dated November 19, 1980.

A. Right.

Q. Which would have been about two months after the bust. Prior to that, did you have contact with George Phillips about the case?

A. To my knowledge, I don't remember. The only time I remember talking to George about the case is when I asked him whatever happened to it, that I was going to present the thing down here just to kind of clear the air.

Q. I presume that was about a year later in August of '81.

A. He was indicted in July of '81, so it was sometime prior to that Grand Jury, probably about 3 months earlier than that.

Q. Okay. Right before Drew went up to Jackson to meet with the United States Attorney, you contacted

Phillips about Drew's appearance --

A. I would not -- let me say this: I was talking to George probably on a daily basis at this time. George had been a County Attorney, he was single and I was single and we both had wives that misunderstood us, and we both were divorced so we were very, very socially good friends.

Now, I very easily, you know, could have been, but it was of no --

Q. Did you recommend that he cut that deal with Drew Fairchild?

A. No, sir.

Q. Did you offer any suggestions at all --

A. No.

Q. -- about how to handle the case.

A. No.

Q. When you would call George daily, how would you do it -- mechanically -- where would you call from?

A. Generally I would call from the office.

Q. From the D.A.'s office?

A. Probably.

Q. And how are those calls billed?

A. They would be billed through the Sheriff's office, I guess.

Q. All right. If we pulled the phone records, what would we find as far as telephone traffic from your office to George's?

A. I'd say you're going to find --

Q. You know, would it be regular traffic?

A. I wouldn't say that it would be on a daily or necessarily on a weekly basis. You know, it would just be different times. I remember he went to a Chicago Bear game with me and flew up and, you know, he would be coming to town and he would call me or vice versa or he had an apartment and I went by his apartment there, and he stayed out at my house one time when he was sick -- I remember that.

Q. Okay. When you say the Sheriff's Department, the monthly bill wouldn't come right directly to the D.A.'s office?

A. It seemed like -- well, it seemed like the long distance went through the County Supervisor and Jenie would bill it through the Sheriff's office.

Q. And then the D.A. would be responsible for paying the call?

A. What we would do is we would analyze what private, you know, calls were made and then I would write a check for that, but to be frank, it just seemed the County took care of it.

Q. Okay. Again, what caused you to indict Fairchild in 1981?

A. Caused me to indict Drew Fairchild?

Q. Yes.

A. That was the fact that nothing happened to him up in Jackson and George Phillips told me that the S.O.B. is not cooperating and to go ahead and indict him. Period.

Q. All right. Was there any publicity that was generated that caused you to act?

A. The only thing -- the only publicity was that the people would ask me from time to time, you know, whatever happened to the drug bust out there at the airport, and I think we had another drug bust about the same time from people in Tennessee.

Whenever there is something I thought of the nature in the community that ought to be presented to the Grand Jury, whether it was about schools or whatever, I would do it and I would let them explain just what happened.

Q. I thought that you had indicated that you were getting heat from the media about what was happening with Drew.

A. No, I don't think so. If I did, that was wrong. I don't remember any heat from the media.

Q. Michael Tyson appeared in the Grand Jury for you.

A. Let me see. I think Mike Tyson was one.

Q. In State court at that time, was there a court reporter in the Grand Jury room?

A. No, sir.

Q. A tape recorder?

A. No, sir.

Q. Has that changed since?

A. Not that I know of.

Q. Of course, there has been evidence that the case was passed to files.

A. Right.

Q. I believe in December of '82. What caused you to pass the case to files?

A. Okay. The way things had been going back and forth, I had this agreement that he would testify, we had Watkins down in Florida, I just got through a long harangue up in Tennessee on an almost identical set of facts -- Tennessee would not extradite the people -- Watkins was fighting extradition, Bill Porter is fussing, you know, about the thing, and I said, "Bill, I'll tell you what I'm going to do. I'm going to pass the thing to files, but as soon as I get Watkins back up here, I'm going to reopen it." You know, that was it.

Q. What would passing it to files do?

A. Absolutely nothing. All it does is it, you got a Rule 10 that says that after a person has pled, you have a "reasonable" time to sentence them.

Now, if you don't go ahead and sentence them, it's my opinion that you then give him a Constitutional right to come in and set everything aside on the thing.

So, what we do, and this is our practice, is that you make them -- the defense -- ask for a continuance, and that way he can't complain that his Constitutional rights have been violated and you can go back and look at the records and each term, they would come in and move for a continuance.

It just got to that point where if we passed it to files, then they won't have to ask for a continuance. It would stay there where the judge could recall it, anybody could recall it.

Q. Did you think passing it to files would toll --

A. No, no. It would toll -- getting a continuance each time?

Q. No. Toll the reasonable time --

A. Oh, yes. That's what I'm saying. I think that because it was a case where there was a man did that did this -- and it went all the way to the Supreme Court -- and they pulled it back out 5 years later and sentenced the man. The man said that wasn't right and the Supreme Court held and all that this type thing doesn't dispose of

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of anything. That it is there until it is finally sentenced.

Q. In other words, I guess you're agreeing that sending it to file --

A. Has absolutely no effect whatsoever as far as making a final disposition. The effect it has, in my opinion, is that you don't have to go in each month and ask for another continuance.

We do this all the time.

Q. Do what?

A. What it does is it gets it off the active docket to the inactive docket; then when the witnesses show up or whatever, you move it from inactive docket back to active docket. That's all that was done.

Q. Now, when you passed the case to files, Watkins was in custody, was he not?

A. That's correct. Down in Florida. He was fighting extradition, and this was going on for about 2 months I believe.

Q. And Watkins was returned to Mississippi.

A. That's correct.

Q. Was the case taken --

A. The very same day.

Q. That Watkins returned?

A. That's right. The 26th day of January, he got two orders. When Watkins was up here,.the case was set for trial, and Drew Fairchild's case we reinstanted by me. The same day.

Q. Now, Watkins had been captured previously in Texas.

A. That's correct.

Q. And you made an effort to have him extradited here.

A. That's right.

Q. And the effort was not successful.

A. No he jumped -- he claimed he didn't jump. That's what he said in the hearing. He said that he had kidney problems and went in the hospital out there and he was never told, you know, that he was supposed to be in Mississippi, but they put him under a $5,000 bond and they held him.

Q. Did you speak to anyone in Texas about that bond?

A. No, sir.

Q. Who set that bond; Federal or State?

A. State of Texas. The people out there said that was the customary --

Q. Who said that, do you remember?

A. No. Katy, I think, handled the thing -- the correspondence.

Q. Did you have any contact with the authorities in

Texas about that?

A. I might have signed some letters going to and from out there, but I don't recall talking with anybody.

Q. All right. When Watkins was captured again in Florida and he was brought to Mississippi, he was brought to Court and bail was again set --

A. Pardon?

Q. Bond was again set here in Mississippi.

A. That's correct.

Q. Across the street in the Forrest County Courthouse.

A. That's correct.

Q. And bond was set for $100,000, and Watkins put up $10,000 and the bondsman was good for the rest.

A. No.

Q. No? What happened?

A. He was on a $100,000 bond in Florida, Bowman agreed to waive extradition -- and I negotiated this out with them -- they would waive extradition provided that he could stay under the $100,000 bond.

I called Judge McKenzie -- had a 3-way hookup between Bowman -- I told him I was not going to set the bond on it -- Judge McKenzie agreed to leave him under the $100,000 bond if he would go ahead and come over here and surrender.

Q. Didn't he have bond here, too?

A. Right. What he did was he had a Florda_bond, and the Florida bondsman contacted the Mississippi bonding company to come over and make his appearance for the new bond. The bonding company -- I want to say Walks -- when they came in and they posted the bond -- in order to get in the bonding business I think you have to put up a certain amount of assets in escrow or whatever -- but when Watkins didn't show up, he forfeited the bond money.

The bonding company is busted, you know, at that it was doing business all over the State -- like an insurance company goes busted or anything else -- but they paid the $10,000 to us, which got us the 10,000 --

Q. Who put up the 10,000 -- Watkins or the bonding company?

A. No. Forrest County paid.

Q. This is what I don't understand. When Watkins showed up in Court, was he required to put up anything?

A. Yes, he had to make a new bond up here for $100,000.

Q. He had $100,000 --

A. Bond.

Q. Did he reach into his pocket and secure that bond with a down payment?

A. No, sir. He came in with a bondsman, who was approved and licensed to write surety bonds -- appearance bonds --

Q. So the bondsman put up the whole 100,000.

A. Yes. And he backed up the bond with the bonding company that was supposed to have assets of probably $1 million.

Q. Okay. And you mentioned the man named Bowman. Bowman was Watkins' lawyer.

A. Yes, sir.

Q. When did you have first contact with him?

A. Just -- I assume whenever we got letters from him after they caught him and he was fighting extradition.

Q. All right. So your first contact with Bowman was October of '82 when Watkins was caught.

A. I would assume so. I assume that he probably talked with Katy on the telephone.

Q. All right. Did he come to Mississippi?

A. Yes, he came up with Watkins.

Q. That was the --

A. I've seen him one time and that's over in the courtroom.

Q. All right. And you're saying that you had a telephone conversation with Bowman and McKenzie wherein it was agreed that the Florida bond would be the Mississippi bond.

A. Well, the same amount.

Q. Same amount?

A. Same amount. In other words, he's out on $100,000 bond down in Florida, and he said we can make the transfer of this to Mississippi and he wants to make sure that it is a $100,000 bond and that it would be sufficient to do it and he would waive extradition and come up here if they would do it.

Q. Why did you go along with that?

A. I thought $100,000 was reasonable.

Q. For a drug dealer that had skipped once?

A. Well, I'll say this, that as the District Attorney, I don't set bonds. That's the reason that I called Judge McKenzie.

Q. You can certainly make a recommendation.

Q. Well, right then I thought $100,000 was certainly adequate or if I just said that no, I wanted $1 million, they are going to fight extradition. You know, you make the choice.

Q. Well, why would it have been difficult to extradite Watkins?

A. I don't know. We can't get them out of Tennessee right now in the same identical set of factors -- flew into the airport out there and had indictments here.

Q. You're not talking about Watkins now.

A. No. Another case entirely, and the Federal court is the one that blocked us up there.

Q. Of course, you had Drew already pled with the sole purpose of cooperating with Watkins.

A. Right. Right.

Q. And the decision was made by Judge McKenzie --

A. That's correct.

Q. -- that bail would be $100,000.

A. That is correct. I recommended, you know, they always ask for recommendations and I recommended it.

Q. Did anyone from M.B.N. have to agree with the recommendation?

A. No.

Q. Have you had subsequent contact with Bowman after Watkins skipped?

A. Seems like we tried to -- no. I'll say this lawyer Vince Sherry called me one time and told me he was going to get him -- it's my understanding that Vince had represented him and also some lawyer out of Baton Rouge who called Katy one day and said he was representing him --

Q. Watkins?

A. Watkins, right. But I didn't talk to them. To my knowledge I don't really recall talking to Bowman since we left the courtroom.

Q. And you are dead certain that Bowman didn't have anything to do with the 18-wheeler business.

A. If he did, I have absolutely no idea that he did, you know. None.

Q. Now, last time you were here I asked you if you ever discussed the substance of Drew's case with Wiley Fairchild. To refresh your recollection, why don't I read you the Q. & A.

QUESTION: -- and for the record, this is page 26.
Did you have converations with Wiley Fairchild after the indictment about his son's case?

ANSWER: No, sir.

flat in immediately after —

QUESTION: Did you call him up after the indictment?

ANSWER: No, sir.

QUESTION: Are you positive?

ANSWER: I'm positive.

Then you went on to say: I called him after the television blasted him and blasted me, you know, when it came out and I called him up and I apologized for getting his name and I tried to defend him on the thing and I told him I was sorry, that I got mad at the t.v. people and that I didn't think he deserved that kind of treatment because it wasn't him, it was his boy, and I didn't think that he ought to have to be dragged through it."

For the record, it ends on page 27, line 2. Now, do you recall that testimony?

A. Yes, sir.

Q. Is that your best recollection today?

A. Yes.

Q. All right. When was he blasted and when were you blasted?

A. Probably along the 10th, 12th, 13th of January, somewhere around in there.

Q. Of what year?

A. Must have been about '83, I assume.

Q. In connection with the case being passed to files?

A. I guess it was passed to files in December of '82, so it was January of '83.

Q. And was that right before it was returned from files?

A. Pardon?

Q. Was that in connection with Judge McKenzie talking about it in open court --

A. Right. Yes, sir.

Q. Now, again, did you ever have any other conversations about Drew's case with Wiley other than that converation that you testified about the last time?

A. Only other time that I can say -- two times that

I can say that I possibly talked with Wiley. One time I ran into him at Bonnie and Clyde's at a reception for Judge Nixon -- I found some pictures in the office the other day, you know -- but we were out there and I remember talking to him and I think that Carroll Ingram brought him out there, and I remember going up and talking to him out there.

Another time I was out at my farm, and as I recall, Judge Nixon called him, and I don't know if I talked with Wiley or not at that time. That was another time, but I did not discuss Drew Fairchild's case with Wiley Fairchild in substance, the facts, or anything like that other than what I've told you.

(didn't)?

Q. All right. Why don't you tell us about that conversation with Judge Nixon and Wiley.

A. Okay. To be frank, it just slipped my mind. I was drinking.

Q. Pardon?

A. I was drinking -- alcohol -- and I can't tell you right now if I talked with him or not. I possibly could have.

Q. Did Judge Nixon discuss Drew's case with Wiley that night?

A. If he did I don't remember it.

Q. When was that?

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A. When was the conversation?

Q. Yes.

A. I would have to say in the springtime, because I know that Judge Nixon came out to get a turkey -- he's a big wild turkey hunter -- and I had a turkey that he'd killed out at the farm and he came out to get it.

Q. Springtime of what year?

A. I would have to say '82, I assume.

Q. Okay. Why would Judge Nixon have called Wiley?

A. I assume to talk about business or just say hello or whatever. I don't know. I'm very hazy, you know, about the thing, and to be frank, I was drinking.

Q. Have you discussed this with Judge Nixon?

A. Yes.

Q. What's his recollection of the call?

A. He said that I called him, he said that I got telephonitis, that I called him. I said, "Judge, I just don't remember calling." You know.

Q. You got telephonitis?

A. That was his exact words. He said, "You got telephonitis. He said that we were sitting there and I called him, but I don't remember calling him. I just don't.

Q. Well, to your knowledge, did Judge Nixon discuss Drew Fairchild's case with Wiley that night?

A. No, sir. To my knowledge -- Mr. Weingarten, I don't want to sit here and say something that happened that didn't happen. I'm going to be frank: I'm very, very hazy on it. Just like out at Bonnie and Clyde's,–I can't tell you what, you know, Wiley and I talked about out there, but I don't remember.

Q. Now, when you testified here the last time, did you have a recollection of that call, the call from Judge Nixon to Wiley Fairchild at your farm?

A. Very, very hazy recollection.

Q. Why didn't you volunteer that information for the Grand Jury the last time you were here?

A. Well, to be frank with you, I just didn't put any significance much to it. It just wasn't -- I mean, I just didn't. Maybe I should have, but I didn't.

Q. You put no significance in the call --

A. I put very little at that time. You know, when you're being questioned and say things, you know, that when you leave, you get to wondering, you know -- you know -- I said this and I said that.

Q. Well, let's make this clear. When you testified before this Grand Jury on July 20th, 1984 --

A. All right.

Q. The time when I asked you the questions and you supplied the answers that you did, do you remember a call that Judge Nixon made to Wiley Fairchild from your farm in

1982?

A. At that time -- let me just say this: When I was testifying, it did not come across my mind, you know, about it, to the extent that I thought it was of any significance, no, sir.

Q. Is that your best answer?

A. Well, that's my answer. I mean, I just didn't. I mean, I had nothing to hide. I certainly wasn't attempting to hide or keep anything from this Grand Jury on that.

Q. Did you have conversations with Carroll Ingram about --

A. Yes, sir.

Q. -- this telepHone call?

A. Yes, sir.

Q. Did you have conversations with Carroll Ingram about this telephone call about the time you testified to the Grand Jury?

A. I don't recall, no, sir. He told me -- I talked to Carroll -- and Carroll told me that we talked about it, but I promise you that I don't remember.

Q. Isn't it true, Mr. Holmes, that you've talked with Mr. Ingram repeatedly about this particular call.

A. No, sir. You know, I've talked to him about how many times, you know, that I've talked with Wiley, and I've talked with Karl Kepper, you know, and Karl told me you know, the other night was the first time that Karl ever mentioned the call to me.

Q. What did Kepper know about it?

A. Kepper said that one night that I called -- that Wiley claimed that about 9:30 or 10:00 o'clock one night, that Judge Nixon called him, and that I got on the extension and I was drunk.

Q. That you were drunk?

A. That I was drunk, and I told Karl, "Karl, I don't remember."

Q. Did you repeatedly ask Carroll Ingram, if Ingram had provided some information about that call to us, meaning the United States Department of Justice?

A. No.

Q. Did you ever tell Ingram that the only thing that you are worried about in the entire investigation is that phone call?

A. To my knowledge, no, sir.

Q. Words to the affect?

A. No, I don't recall telling Carroll Ingram that. There's nothing to be worried about.

Q. About how many times have you spoken with Carroll about this phone call, to your knowledge?

A. I'd say three, maybe.

Q. Did you tape any of those calls?

A. No, sir.

Q. Did you ever ask Carroll if Wiley had taped the call from Judge Nixon and from you?

A. No, sir. I don't recall asking him that. I could have, but I don't recall.

Q. What's your best understanding as to why Judge Nixon called Wiley from your farm?

A. To be frank, I don't remember. I would just be sitting here speculating because I have no actual remembrance of the substance of the conversations.

Q. Isn't it true --

A. Carroll -- let me say this -- Carroll told me that his understanding on the thing was that I did not speak to Wiley.

Q. You didn't what?

A. I didn't speak to Wiley, and I told Carroll -- and the last thing I want to do is commit perjury -- and I said, "If there's any problem in the darn thing, let me know." And that was it, because I don't remeber and I don't want to come up and tell you something, you know, just tell you a story that will fit a pattern --

Q. The very last thing we want you to do, Mr. Holmes, is to tell us story. All we are interested in is the truth.

A. That's what I'm trying to tell you. That's the reason I'm saying, I can't remember.

Q. Isn't it true, sir, that Judge Nixon called Wiley about Drew's case?

A. No, sir. If he did, I am not remembering it, because I never heard that.

Q. Isn't it true that during that conversation that Judge Nixon assured Wiley that the case would not be a problem for him through your handling of it, or words to that affect.

A. No, no, sir. That did not happen.

Q. Isn't it true that you got on the phone and advised Wiley that whatever Judge Nixon tells you to do, you do -- or words to that affect?

A. I have no recollection of that, no, sir.

Q. Is it your testimony that you have no recollection of talking to Wiley Fairchild that night with Judge Nixon out at your farm about Drew's case?

A. My opinion --

Q. Not your opinion, your recollection.

A. No, sir. My recollection is not.

Q. Do you have anything to add --

A. My opinion is that the phone call took place, that I cannot tell you right now the substance of it whatsoever.

Q. And I just want to get back to the point. You knew when you came in the last time that the subject matter of the investigation was Wiley Fairchild's relationship with Judge Nixon, did you not, at least in part?

A. In part, yes.

Q. And it is your testimony that you had a recollection of the call back then when you testified, but you didn't think it was significant enough --

A. I didn't think it was significant, no, sir.

Q. All right. You did have a recollection of the call when you last testified. I just want to make that point clear.

A. Carroll Ingram -- let me say this -- Carroll Ingram tells me that I told him around during, you know, the investigation, of knowledge of the phone call. I told Carroll that I don't recall that, but yet he told me that. I mean, that's where we have a difference.

Q. All right. I don't want to belabor a point --

A. Okay.

Q. -- but you were here July 20th, 1984 and September 5th, 1984, both instances you understood the investigation, at least in part, concerned Wiley Fairchild' relationship with Judge Nixon. Is that a fair statement?

A. Yes, sir.

Q. When you sat in that chair on these two previous occasions, did you have a recollection of that call from Judge Nixon to Wiley Fairchild from your farm?

A. My recollection is that there was that there probably a call made, but I did not know enough about it to discuss it, that I certainly didn't know the facts in the thing, I did not know the substance of it.

Q. So, you knew of the call in a vague sense.

A. Vague sense, and it would be unfair for me to come up and say a call was made because I could not swear a call was made, you know, I just can't.

Q. What's your recollection now, was the call made or not?

A. In my opinion, yes, sir. A call was made.

Q. Was anyone else at your farm at the time?

A. To my knowledge, no. You know, my girl friend might have been out there.

Q. Does anyone live out there with you?

A. Yes, sir.

Q. Was anyone living out there at the time?

A. Yes, sir.

Q. And who would that be?

A. My girl friend, Marcie Bailey.

Q. Does she live there now?

A. Yes, sir.

Q. Was she present for the call?

A. I don't think she was, no.

Q. Have you discussed it with her?

A. No, sir. Well, I guess I have. Yes, I talked with her about it.

Q. Does she have a recollection about the call?

A. She dosn't, no, sir.

Q. What brought the call to mind?

A. Pardon?

Q. What brought the call to mind?

A. Carroll told me about it about a week ago.

Q. Did he volunteer the information or did you quiz him about the particular call?

A. No. He volunteered it.

Q. Just so we're clear on this, did you ever indicate to Carroll that that telephone call was what you were worried about in this investigation, or words to that affect?

A. Well, I don't recall saying that. I could have at some time, I mean, but just like a lot of times I'd say different things, but I do not recall telling Carroll that I was concerned about it. I know I told him the other day, "Carroll, I don't want to commit perjury, you know, up there. Now if you know something about the phone call or any statements, I would appreciate your telling me because I want to get the darn thing straight because I ain't got nothing to hide."

Q. All right. Once more. Did Judge Nixon, during

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that phone call, discuss with Wiley Drew's case?

A. I do not know. I do not remember him doing it.

Q. Did you then, after Judge Nixon spoke with Wiley, get on the phone and discuss Drew's case with Wiley?

A. I do not remember that; no, sir.

Q. Did you ever indicate to Wiley that when Judge Nixon tells you to do something, you'll do it?

A. Never.

Q. Do you and Judge Nixon have any business interests together?

A. No, sir.

Q. Have you ever traveled together?

A. Yes, sir.

Q. How many times and where did you go?

A. Been to Vicksburg hunting.

Q. How about out of the State?

A. Yeah. Went down fishing down in Grand Isle one time when he was first judge. I've been down to Destin, Florida with him.

Q. Las Vegas?

A. He was out in Las Vegas one time and I met him out there.

Q. So you have been in Las Vegas only one time together?

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A. That's all. I think he and his wife were on their honeymoon and he was coming back through Las Vegas and we were going out there -- you know, we used to go out there on business -- and we went around to a couple of shows.

Q. Have you ever exchanged things of value with Judge Nixon?

A. No, sir.

Q. Have you ever given him anything of value?

A. No, sir.

Q. Have you ever received anything of value?

A. Got he -- he gave me a thing with quails, you know, an ornate quail thing. That would be the only thing of value that I can think of.

Q. Any money?

A. No.

Q. Either way?

A. No.

Q. From you to him?

A. No, sir.

Q. From him to you.

A. No, sir.

Q. Does he stay with you at your farm when he's in Hattiesburg?

A. No.

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Q. Has he ever?

A. Seems like maybe one time he stayed over at Jim's farm, but that would have been three or four years ago.

Q. When he's in Hattiesburg for Court, where does he typically stay; do you know?

A. He's been staying, I think, out at the Hampton House.

Q. I'm sorry?

A. Hampton House, or drive back and forth, I guess.

Q. Okay. Just getting back to the call. Did you date that the spring of '82?

A. Only reason I would tell you that is that it was in turkey season.

Q. And the judge did some hunting then?

A. Yes, sir. And he'd gotten me to take the turkey home from Vicksburg.

Q. I see. You had been hunting --

A. Yes, sir.

Q. And then you stopped at your farm --

A. I dropped it off at the farm.

Q. And Judge Nixon came in?

A. No, sir. I was not with Judge Nixon from Vicksburg. I was up at Vicksburg with him, then he had killed a turkey and best I recall he had to go somewhere

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else and I stayed over like a day or two and he asked me if I would bring the turkey -- his turkey -- home after whoever cleaned it, you know, and then he would stop by and pick it up. That's the only time that I can think of that he's been out at the farm.

He came out there with his wife and Carroll Ingram and his wife after I had my airplane crash -- they came out at noon -- the four of them -- and that is the only other time that he's been out there in three or four years.

Q. So you're deducing from that that the call would have been the first time --

A. Spring of '82 or spring of '83. Had to be spring because it was in turkey season.

Q. When does Judge Nixon recall the call being made?

A. I flat didn't ask him.

Q. What is the extent of your conversation about that call with Judge Nixon?

A. I asked Judge Nixon did he make the call to Wiley and what did he remember about it, I told him, "Hell, I was drunk." He said that he called him up and talked to him just very briefly and that was it.

Q. I thought you said that he told you that you called him up.

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A. No. You're right. I did say that. He said he talked to him, that I called him but that he talked to him.

Q. What did he say he talked to him about?

A. To be frank, he just said he talked to him. I don't remember. He just said that he talked with him. I remember him saying that it didn't have anything to do with the case.

Q. I'd like to ask you some questions about some other cases that you may have handled.

A. All right.

Q. That I have not talked to you about before.

A. Okay.

Q. First let me ask you, do you have any knowledge that Judge Nixon owns a building on the Coast in Biloxi or Gulfport?

A. He owns where his law office used to be.

Q. Does he still own that building?

A. I don't know.

Q. Has he ever been desirous of selling that building?

A. Yes, sir. He has.

Q. Have you ever assisted him in selling that building?

A. One time I know that the people that Carroll --

whichever one of the loan companies -- was moving to the Coast and I told him that Judge Nixon had a building that he'd been trying to sell.

Q. Did you ever make any other effort --

A. Not to my knowledge.

Q. -- to assist Judge Nixon?

A. No, sir.

Q. Did you ever contact an attorney with a case before Judge Nixon and encourage him to buy Judge Nixon's building?

A. No, sir.

Q. Did you ever tell an attorney with a civil case -- plaintiff's lawyer -- that had a civil case before Judge Nixon that if he bought Judge Nixon's building, that would help him get a larger verdict?

A. No.

Q. Are you sure about that?

A. If you'll name the place and time. I have absolutely no recollection of such a conversation.

Q. Is it fair to say that if you ever made such a statement to a lawyer who had a case before Judge Nixon, that you would remember it?

A. I think I would, unless I said it as a joke, you know, I could have said something in jest or something like that, but I have absolutely not independent recollection of such a statement.

Q. Do you know a man named Bergen?

A. Bill Burgen. Sure do.

Q. Identify him for the Grand Jury.

A. Bill Bergen was President of the Senate who was convicted or whatever -- I don't know what the crime was -- in Biloxi.

Q. All right. He was tried before Judge Nixon.

A. Yes.

Q. And he was represented by Charlie Sullivan.

A. I believe that is correct, yes.

Q. Is he a lawyer in Mississippi?

A. He's dead now. He's a former Lieutenant Governor.

Q. Did you ever represent Mr. Bergen?

A. Did not.

Q. Did you ever provide any legal assistance to Mr. Bergen?

A. I refused to represent him.

Q. And why was that?

A. Because I was going to represent him if he was tried in Hattiesburg. It was going to be tried in Biloxi and he tried to get me to go down there and just quite frankly I thought that he was just trying to get me in the thing because he thought that I would have some

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favorable influence on Judge Nixon, and I refused to do it.

He came back to see me one time and wanted to know if there was some way -- to be honest -- some way that I could bribe him, you know, some way to get to him and I told him that I did not know and I certainly had no knowledge of it.

Then a bit later on -- later on someone said that in the penitentiary that Bill Bergen was making a statement that I said for $50,000 that I could get it handled or something to that affect and I just said, "Well, that's just not true."

Q. Are you saying that Bergen solicited you to commit bribery?

A. In my opinion that's what he was doing.

Q. Did you ever report that?

A. No, sir. He never did come out and say to do this or do that. He'd say something like, "I've got a big damage suit that I want to associate you in and you can make a lot of money. All I want you to do is come down and be around the courthouse and do this and do that during the trial." And so forth.

Q. Well, how would that be effective for him?

A. Pardon?

Q. How would that be effective for him?

A. Just quite frankly, he thought that I could influence the Court. That was his purpose.

Q. And that would be Judge Nixon.

A. Judge Nixon.

Q. Where did these conversations take place?

A. At my office.

Q. Did you ever have conversations with him at your farm?

A. I did.

Q. Did you or he ever express concern that you were being wired?

A. I took him out there -- no, no. I told him, I said, "Bill, -- you see, I knew Bill -- And I said, "Bill, let me give you some advice. From this day forward, you can expect that whoever you talk to is going to be wired. I'm not wired. I just want you to know that right now." I said, "Get ready for the defense." I said, "I want to give you some advice -- freindly advice." And then I told him that.

Q. Did you go to any special lengths to prove that you weren't wired?

A. Yes, sir.

Q. What did you do?

A. I took off my clothes.

Q. Why did you feel it was necessary to do that?

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A. To be frank with you, I was just trying to make an impression on him.

Q. What would that --

A. I said, "Bill, I just want you to see something." So I took my clothes off and got down to my shorts and I said, "See. You think I'm crazy." But I said, "From this day forward, unless somebody is willing to do that, you just assume that they are wired."

Q. Why was he to assume that his lawyer to be would have been wired?

A. Well, he didn't. I just did it to make an impression.

Q. Isn't it true that you did it because you expected that there were going to be criminal conversations coming?

A. No. No. No. No.

Q. Did you ever indicate to Mr. Bergen that you would help him, that there would be no fee for you, but that he would have to pay gambling money for Judge Nixon?

A. No, sir.

Q. Did you ever call Judge Nixon in Mr. Bergen's presence?

A. I don't recall it, no, sir.

Q. That day when you took your clothes off to establish to Mr. Bergen's satisfaction that you weren't wired, did you call Judge Nixon in Mr. Bergen's presence?

A. I don't recall; no, sir.

Q. Did you ever talk with Judge Nixon about Mr. Bergen?

A. No, sir.

Q. Did you ever tell Judge Nixon that Mr. Bergen had approached you to bribe Judge Nixon?

A. No, sir.

Q. Why not?

A. Just couldn't see any need in it.

Q. It's a rather serious thing for a former President of the Mississippi Senate to seek an attorney's help to bribe a Federal Judge, is it not?

A. That would be, but I never let it get to the point where you could say he ever attempted it. I never let it get to that point. I'm not saying he ever made the overture, I'm just saying that I thought that was where it was going to lead up to.

Q. And just explain again why it is that you took your clothes off.

A. We went out there to my farm -- and I do do things in a crazy way -- and I went out there to the farm and said, "Bill,"-- I said, "You're going to think I'm crazy and I want you to watch me." I took my clothes off. I said, "You take a look at me right now. Now, I'm not

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wired, but I can tell you one thing, between now and the end of this case you might as well expect that everybody that's your friend, your buddy, or anything else is going to be wired." I said, "Just expect that."

Q. Is that standard practice here?

A. No.

Q. Have you wired anybody in this case?

A. No, sir.

Q. Did you wire Carroll Ingram in your recent conversations?

A. No.

Q. Are you sure about that?

A. Positive. I've never wired anybody in my life.

Q. Do you know a Dr. Shows?

A. Yes, sir.

Q. He got in trouble writing prescriptions I believe.

A. I don't know what the trouble was, I know he got in trouble. He was up in Newton.

Q. Did you represent him?

A. I represented him -- I want to say before the State Pharmacy Board when they were trying to take his pharmacy license.

Q. Did you receive a fee?

A. Yes. I guess he paid me something.

Q. Was it his dad, Preacher Shows, that paid you?

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A. I forgot who paid me, you know, and I'll be frank any of the details. It's been 7 or 8 years ago.

Q. Is it your recollection that it was that far back?

A. Well, what I'm saying is that I don't remeber any of the details of it.

Q. Did you represent a John Houston?

A. Yes, sir.

Q. And he's a pharmacist who also got in trouble?

A. Yes.

Q. And were you the trial lawyer?

A. Yes, I tried that one.

Q. And just summarize that case.

A. Okay. John -- that didn't involve drugs -- John had put the bite on someone for a 3-wheeler -- a fellow who had written some prescriptions -- and John told him that he would suppress the evidence and not turn it over to the authorities, but he had to have a 3-wheeler. So the people went to the Bureau of Narcotics and they got wired and came back and made the delivery and they had the t.v. -- candid camera --

Q. Is it fair to say that --

A. And he's convicted.

Q. Is it fair to say that Mr. Houston was charged with bribery and there was a video tape.

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A. That's right.

Q. And you defended him.

A. That's right.

Q. And there was a trial and is it fair to say that there was a mistrial --

A. 11 to 1, that's right.

Q. Was it 11 to 1 for conviction?

A. Yes.

Q. Okay. The one juror, at least the foreman or somebody, reported to the court that the one juror owed Mr. Houston money.

A. I don't know.

Q. You don't know that?

A. No, sir.

Q. In my telling you that, is that the first time you've heard it?

A. No, sir.

Q. I'm confused.

A. No, sir. At the picking of the Jury, John helped me pick the Jury --

Q. Right.

A. And there were several people on the Jury -- and I don't even know which one it was -- there were several people on the Jury that had done business with John --

Q. Right.

A. You know, up there.

Q. Right.

A. Now, John said, "Keep this one, keep [redacted] Now, that's all I know.

Q. All right. Did you know that the held out owed John Houston money?

A. No, sir. Now, I don't know that. that had done work for John or had bought a John or something like that because John made comment.

Q. That was the lone hold out.

A. That's my understanding.

Q. All right. Did you have any contact juror?

A. No, sir. I have no idea of who it

Q. Did you know during the trial that jurors had done business with Houston?

A. I think a bunch of them had. It's small community. Done business? I think a had done business with him.

Q. Well, were they not excused from

A. I don't recall. I just don't remember that it was not unusual in a small

Q. Did the D.A. know the juror had with Houston?

A. I assume that he did, because I remember Orby -- now that's the D.A. -- laughed about it and said he got down to two people, whether to keep this one, you know, or keep that one and he knew the fellow had done business with him.

You know, we laughed about.

Q. So, it was out in the open and there was no nondisclosure by the juror.

A. To my knowledge.

Q. And you had no contact with the juror.

A. No.

Q. You testified the last time about $150,000 from Stocks who had the Petit Bois case.

A. Right.

Q. What were the circumstances in him contacting you. That's not so clear in your last Grand Jury appearance.

A. Okay. I got a phone call, and as a matter of fact, it came into my office and I returned it. He said he was interested in Studebaker's and I said I would meet him and I met him -- went to Jackson.

Q. When he called you, had you known the man before?

A. No.

Q. Did you expect the call?

A. No.

Q. He called you clear out of the blue?

A. Out of the clear blue.

Q. Was the Petit Bois case going on at that time?

A. To my knowledge, I don't know.

Q. Did you discuss this matter with Judge Nixon?

A. No.

Q. Did Judge Nixon know that you were negotiating a business deal with Stocks at any point in time?

A. He didn't learn it from me if he did.

Q. Now, Stocks comes to Jackson and meets with you and indicates an interest in Studebaker's.

A. Right.

Q. And eventually buys certain rights to open up a Studebaker's for $150,000.

A. Right.

Q. All right. Did Mr. Stocks, in fact, open up a Studebaker's?

A. I think Gene Lewis did.

Q. And what's his relationship with Stocks?

A. Gene Lewis was his partner.

Q. So as we speak, the Studebaker's in Florida are run by Stocks' partner.

A. It is my understanding now that Gene Lewis has bought Stocks out. Gave him $150,000 -- I think. He did that a long time ago.

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Q. All right. Just so we're clear, the $150,000 went where?

A. Okay. It went straight into Studebaker's of America.

Q. Without stopping at go.

A. No. It went straight into the bank over at McComb in the Studebaker account.

Q. Did Stocks ever ask you to do anything for Judge Nixon?

A. No, sir.

Q. Are you certain about that?

A. Positive.

Q. Okay. Then your experience with Stocks was different than your experience with Bergen.

A. That's correct.

Q. And you never discussed the Studebaker's deal with Judge Nixon.

A. No.

Q. Is it just a coincidence that Stocks simultaneously was litigating his lawsuit before Judge Nixon and transacting business with you?

A. I think the -- well, I don't know when the thing started or stopped because I'm not connected with the Petit Bois case, you know, enough, but I assumed the thing was over with.

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Q. Stocks never asked any favors of you.

A. No, sir.

Q. Okay.

A. I had very little contact with Stocks. My primary contact right now is with Gene Lewis. I talk with him on a daily basis.

Q. You speak to Lewis on a daily basis?

A. Yes, sir.

Q. To your knowledge, does Lewis continue to have a business relationship with Stocks?

A. Not that I know of. I don't know. I don't know what their relationship is.

Q. All right.

A. My understanding is that Stocks is developing something for the Statue of Liberty and he's selling the debris of the Statue of Liberty is what I understand.

Q. In the course of this investigation, has it come to your attention that Wiley Fairchild has been indicted?

A. Yes.

Q. And at the time, who was Fairchild represented by?

A. Karl Kepper.

Q. And is it fair to say that there were pretrial motions and discovery was made in that case just like any other case. Do you know that?

A. I'm sure it was. I read it in the papers and

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Karl told me.

Q. Did he provide any discovery that he recieved from the Government to you?

A. Yes.

Q. What did he provide you?

A. He played a tape of Skip Jarvis.

Q. What else?

A. That's all.

Q. And why did he do that?

A. He just called me down there one Friday afternoon and said he wanted to play something and he said, "I've been telling you all along that Wiley Fairchild has not said anything bad about you and that Wiley Fairchild is your friend." And so forth and this is what he would always say -- anytime we talked -- he said, "I want to play something because you think I've been lying to you." Then he played that.

Q. Did he turn anything else over to you?

A. Pardon?

Q. Did he turn anything else over to you?

A. No, sir. As a matter of fact, I didn't get the thing.

Q. You didn't get a copy?

A. No.

Q. Did you receive any of the Government's material in the Fairchild case from anybody else?

A. No.

MR. WEINGARTEN:

With your indulgence, I'm going to speak with cocounsel.

THE WITNESS:

Do you want me to go outside?

MR. WEINGARTEN:

Yes. Why don't you.

(Whereupon a discussion was held between the U.S. Attorneys and the Grand Jury and the hearing continued)

MR. WEINGARTEN:

We just have a few more questions.

Q. There is some curiosity as to where those 18-wheelers were sold.

A. They were sold here in Forrest County through the Board of Supervisors. As a matter of fact, Glen white, who was my assistant, handled it and it's all a matter of record.

Q. Okay.

A. I think the Sheriff's office still has one of the vans and uses it but the rest of them were all sold at public auction. One of them I think was repossessed and got into a big fuss and it seems they got one of the tractors back.

Q. Have you received any Grand Jury material from anybody? From Mr. Kepper?

A. No, sir.

Q. Have you received any F.B.I. reports from anybody?

A. I've seen absolutely nothing.

Q. All right. Have you had recent telephone contact with Judge Nixon about your Grand Jury testimony?

A. No, sir.

Q. When was the last time you talked to him coming in today?

A. Friday.

Q. And where was that contact?

A. Here at the courthouse. He was holding court.

Q. You just met with him.

A. Yes.

Q. And what was that conversation?

A. Just that I'd been subpoenaed.

Q. Did you discuss the call, is that when you discussed the call?

A. Yes.

Q. Is that the first time you've discussed the call with Judge Nixon?

A. Yes. He didn't put much, if any, credence in it. He said, "Yes, I talked with Wiley." He says, "You got telephonities." I said, you know, "Well, I'll be darned if I remember."

Q. His version is that you called and Judge Nixon got on the phone.

A. That's what he said.

Q. And your version is that --

A. No. My version is that I don't know. Carroll said --

Q. Forget about Carroll.

A. All I've got to go with is what people tell me and different people's version of it. I don't -- I have very little recollection -- nothing more than a vague type memory, you know, of the thing.

Q. Okay.

MR. WEINGARTEN:

Okay. I think that's all.

THE WITNESS:

Thank you.

CERTIFICATE OF REPORTER

I, William M. Hoppock, Official Court Reporter for the United States Grand Jury for the Southern District of Mississippi, impaneled as a Special Grand Jury on July 18, 1984, and the order appointing the said William M. Hoppock, dated August 31, 1984 and filed with the clerk of the United States District Court for the Southern District of Mississippi, hereby certify that the foregoing 74 pages, and including this page, contain a true and correct transcript of the proceedings had in the Special Grand Jury as taken by me in stenotype and by tape recorder on the date hereinbefore stated and later reduced to typewritten form to the best of my skill and ability.

Witness my signature and seal, this the 1st day of March, 1985.

WILLIAM M. HOPPOCK

My commission expires 11/4/87

EXHIBIT
Respondent's
Exhibit 47

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

SPECIAL GRAND JURY IMPANELED JULY 18, 1984
(A QUORUM PRESENT)

Transcript of the testimony of:

KARL KEPPER

Taken on Wednesday, March 27, 1985.
Beginning at 3:10 p.m.

APPEARANCES:

REID WEINGARTEN
JAN LITTLE
U.S. Attorneys
Public Integrity Section
U.S. Department of Justice
Washington, D.C. 20530

FOREMAN: DAVID MITCHELL WARD, SR.

ASSISTANT FOREMAN: DOROTHY MAE CLAYTON

REPORTED BY:

WILLIAM M. HOPPOCK
Official Reporter per Order
Dated August 31, 1984

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 47

KARL KEPPER

Having been called to testify and having first been duly sworn, was examined and testified as follows:

MR. WEINGARTEN:
Good afternoon.

THE WITNESS:
How are you.

MR. WEINGARTEN:
You're name, sir?

THE WITNESS:
Karl Kepper.

MR. WEINGARTEN:
Where do you live.

THE WITNESS:
Eight miles west of town.

MR. WEINGARTEN:
How are you employed.

THE WITNESS:
Attorney.

MR. WEINGARTEN:
How long have you been an attorney?

THE WITNESS:
It's been 36 years.

MR. WEINGARTEN:

Mr. Kepper, my name is Reid Weingarten, we of course, know each other.

THE WITNESS:

Sure.

MR. WEINGARTEN:

This is Jan Little, and of course, you know Jan.

THE WITNESS:

Sure.

MR. WEINGARTEN:

We are attorneys, for the record, from the Department of Justice. The ladies and gentlemen before you are members of the Federal Grand Jury seated here in the Southern District of Mississippi investigating allegations of criminal offenses.

You, like every other witness, have certain rights and privileges. You must acknowledge your understanding of those privileges, as do all witness.

THE WITNESS:

Yes, I do.

MR. WEINGARTEN:

Well, let me explain them; eventhough I'm sure you know them.

You have the right not to answer any

question the answer to which might tend to incriminate you; do you understand that?

THE WITNESS:

(Witness nods head)

MR. WEINGARTEN:

You have to answer so the court reporter can take it down. I'm sure you know that also.

THE WITNESS:

No. This is the first time I've been before a Grand Jury. I'm aware of that, yes.

MR. WEINGARTEN:

You have the right to an attorney. Your attorney cannot be in the Grand Jury room with you, but if at any point in the proceeding you wish to consult with an attorney, you're free to do that. Do you understand that?

THE WITNESS:

Yes, I'm aware of that.

MR. WEINGARTEN:

Do you have an attorney here today?

THE WITNESS:

No, I do not.

MR. WEINGARTEN:

Do you wish to have an attorney?

THE WITNESS:

No.

MR. WEINGARTEN:

And you understand, I'm sure, that anything a witness says in the Grand Jury can be used against that witness in a subsequent proceeding.

THE WITNESS:

I understand.

MR. WEINGARTEN:

Are you prepared to proceed?

THE WITNESS:

Yes.

EXAMINATION

BY MR. WEINGARTEN:

Q. Was there a time when you represented a man named Wiley Fairchild?

A. Yes, sir. As a matter of fact I'm not sure whether I still do or I don't, but I did for awhile.

Q. Is it fair to say that Mr. Fairchild was indicted by this Grand Jury?

A. That's correct.

Q. Is it fair to say Mr. Fairchild pled guilty in New Orleans to Count 1 of the indictment, paying a gratuity to Judge Nixon?

A. That's my understanding. I did not go down there when that matter was handled.

Q. But that is your understanding.

A. Yes, it is.

Q. Do you know a man named Bud Holmes?

A. I have known Bud Holmes since I have been here practiceing law.

Q. How long is that?

A. Well, he didn't come here until after I was here. I was in my office in 1951, April of '51, and he came here several years later. Of course, he's a home town boy and his father used to be Mayor here.

Q. So, you've had a lot of contact --

A. Yes. Through the years, yes.

Q. Did you have contact with Mr. Holmes in connection with the Wiley Fairchild case in your representation of Wiley Fairchild?

A. Yes. First, let me say this if I may. Mr. Polk, who used to have Polk Cadillac here, Bud Holmes had been his attorney for years and he had some difficulties with the City and Mr. Polk was referred to me by Mr. Holmes, but then after he went out of office as District Attorney, he conferred with me quite a bit because he still represented Mr.

Polk. I was handling the cases for him, but he was more or less assisting with him.

Q. Okay. And why do you raise that, what does that trigger?

A. What that triggers is this: I would say about seven or eight months ago he came by my offices on two or three occasions and discussed the Polk case with me, at which time this Grand Jury was going on.

Q. And so we have a fixed reference, would this have been before or after Wiley Fairchild's case was resolved with his guilty plea?

A. It was before.

Q. Is it fair to say it was soon after the Grand Jury investigation began?

A. Yes it was. I would say within a week or so.

Q. And this was during the time you were representing Wiley Fairchild?

A. That's correct.

Q. Now during the occasion he visited with you about the Polk case, did he ever make any remarks or have any conversation with you about this Grand Jury investigation?

A. Yes, he did. He asked, he says, "Can you tell me what's going on?" I said, "I don't know. Very little. I only know what I know from my clients."

Q. Which you couldn't tell.

A. Which I couldn't tell, and I didn't go into anything like that. And he said, "I'm going to ask you this: In your talking -- I know you talk to many people and witnesses -- in preparing yourself and so forth have you ever heard it said that I called Wiley Fairchild on a telephone at any time?"

And the first time he mentioned that I thought it was strange. I said, "No, I understand you and the Judge -- Circuit Judge -- went out to his office one morning but I never heard any discussion about a telephone conversation."

And then it must have been a week or so later that he was by my office and said, "I just keep on hearing remarks about me making phone calls to Wiley, are you sure that you haven't heard anything along those lines?" I said, "No. I have never heard anything about a phone call you made."

Then he said, "You know, the Fairchild's are my friends. I have taken them to New Orleans to the ball games and so forth and I've introduced them to Mr. Mecon and all those people and we consider

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ourselves good friends".

Q. Mr. Mecon is the owner of the New Orleans Saints?

A. I think that's right, and so he said, "I just keep hearing things and I was just wondering if you had heard anything along those lines." And I said I hadn't.

Q. Were you being truthfull, did you know about a phone call at that point?

A. No, I never heard about any phone call. As a matter of fact, my client had never mentioned anything to me at that point, and so it drug on for another week or so; and then we had to go to New Orleans, you were down there and this lady here, and we had motions to argue.

Q. This would have been after the indictment but before Wiley's plea?

A. That's correct.

Q. Up to that point had Mr. Holmes mentioned any specifics about the phone call that he was talking about as to who was present and what was said?

A. No, that was later on.

Q. All right.

A. All right. Then when I came back from New

Orleans, Mr. Aarondahl and myself and Mr. Fairchild was in conference in Wallace Gunn's office and Mr. Aarondahl -- he and I had talked the night before at length about this -- and he said to me, he said, "Karl, I think that Wiley is not completely leveling with us." And Wiley dropped his head and said, "I haven't."

Q. At that point is it fair to say that he provided you certain information about the phone call that you hadn't heard before?

A. Still no mention of the phone call. About that time he dropped his head and he said, "I have never told you boys about this and I feel badly about it. I'm going to tell you now."

He said, "Bud Holmes called me one night about 7:00 or 7:30 and told me that everything was going to be all right. You know, I talked to the man and he said everything is going do be all right. You don't have to worry about your boy."

He said that about that time it sounded like Judge Nixon got on the phone, he said he heard this voice and it sounded like Judge Nixon's voice, And he said, "Yes, I talked with Bud and everything is all right. You just quit worrying about all this. It will be taken care of and you just don't worry about it."

And so it was then that this thing -- then I realized what phone calls that Bud was talking about -- had you heard about this or had you heard about that -- and then it made some sense as to what he was talking about.

Q. And what conclusions did you come to?

A. I came to the conclusion from that that Bud knew long before Mr. Fairchild told me about some phone calls that were to me very obvious.

Q. In the conversations that you had with Holmes -- before Wiley made this disclosure -- did he ever indicate to you that the phone call that he was interested in was made from his farm with Judge Nixon there?

A. No. He didn't say anything about where the phone call was made or anything else. He just simply asked me if I knew anything about a purported phone call that he was supposed to have made and he did not mention Judge Nixon.

Q. Just so that it is perfectly clear, when he asked you that, you had not heard about the phone call.

A. No, I had not.

Q. And you only knew about the phone call after your pretrial motions were denied in New Orleans.

A. That's correct.

Q. And then you came back and had conversations with Wiley.

A. That's correct.

MR. WEINGARTEN:

Thank you. The procedure is that you step outside and we'll see if we have anymore questions.

(Whereupon a discussion was had between the U.S. Attorneys and the Grand Jury and the proceedings continued as follows:)

MR. WEINGARTEN:

One area that I'm going to explore that is related to other evidence the Grand Jury has heard.

Q. In the course of your representation of Mr. Fairchild, is it fair to say that the Government -- namely the two of us -- turned over certain discovery to you pursuant to the Criminal Rules of Procedure?

A. I believe it was turned over to Mr. Gunn and later turned over to me.

Q. Is it fair to say that the evidence

included a tape recording of a conversation between Skip Jarvis and Wiley Fairchild?

A. That's correct.

Q. Did you disclose the tape or the transcript of the tape to Bud Holmes?

A. Not all of it. A part of it.

Let me explain to you how that happened. He had a tape that he brought over to the office, he was trying to make a determination as to who had gotten this thing kicked off, so to speak.

Q. Meaning the investigation?

A. That's right. So he said, "Well, Skip thinks Baltar did it." And I said, "No. Baltar didn't do anything like that." He said, "I want you to hear this."

So then he pulled the tape out and played it in my machine, and it went on to say that Mr. Fairchild -- he says, "I know him. He will not take the stand. You don't have anything to worry about."

They were discussing -- he and this other attorney -- were discussing a civil suit that they had against Mr. Fairchild.

So this other attorney asked Him, he said, "How did this thing get started." He said, "I think Baltar."

Now, as I say, I don't know Skip Jarvis, and I wouldn't know him if he walked in that door -- I have never seen him before other than just seen him up here. I never talked with him and never met him, but I did know the other attorney that was talking with him -- I recognized his voice -- he said, "Well, who in your opinion got this thing going?" "That fellow -- that skin head -- Baltar is the one that did it."

Q. In other words, when Holmes was in your office, he pulled out a tape he had and played it. It's a tape with Jarvis and another lawyer that you knew, and during the conversation of it that was taped, they discuss who started the whole investigation.

A. That's correct.

Q. Who made the tape?

A. Bud Holmes told me that Robert Drake made the tape.

Q. Do you have a copy of the tape?

A. I gave it back to Holmes.

Q. Did you thereupon play the tape that we had given to you?

A. I played a part of it, that part of which that said -- with reference to him saying who started this thing -- or words to that effect -- at Mr. Fairchild's office -- and so I said, "No. Skip is the one who started it because he was out there and walked into Mr. Fairchild's office and didn't let the man know he was being bugged." And that is how that came up.

Q. Did Mr. Holmes demand the discovery from you?

A. Do what?

Q. Did he make any demands of you to give him discovery?

A. No.

Q. Did you give him anything else that we had turned over to you?

A. No.

Q. Did you give him a copy of the tape to take out with him?

A. No.

Q. Did the playing of those tapes trigger any of the conversations you had with Holmes about the telephone call?

A. It triggered it in this way. When that was played and Holmes mentioned the fact that this continuous talk about him having made a phone call, which he said, "I didn't. I just don't know. I just don't honestly know what they are talking about."

He said, "But somebody said that I made a call to Wiley Fairchild."

And I said, "Did you?" And he said, "No indeed I didn't. If I did I sure don't remember it."

And he said, "Do you know Wiley Fairchild very well?" And I said, "No, I only met him after I got employed to represent him in this case. That's the only time I ever met him."

He said, "You know, he's got a bad drinking problem. When he comes in in the evening, first thing he does is pour himself a couple of drinks. Hell, he can't remember anything that was said."

Then I realized he was formulating to me, that he was formulating his defense.

Q. That Bud was?

A. That's right.

Q. All right. Did you come to that conclusion only later when Wiley disclosed that a call, in fact, had been made?

A. That is correct. In other words, all of those bits and pieces made sense once Wiley told me that is what had happened, then it made sense what he had talked about all this time. In other words, he was laying the predicate.

Q. Who?

A. Bud was.

MR. WEINGARTEN:

Your excused now, thank you.

(Whereupon the proceeding concluded at 3:31 p.m.)

CERTIFICATE OF REPORTER

I, William M. Hoppock, Official Court Reporter for the United States Grand Jury for the Southern District of Mississippi, impaneled as a Special Grand Jury on July 18, 1984, and the order appointing the said William M. Hoppock, dated August 31, 1984 and filed with the clerk of the United States District Court for the Southern District of Mississippi, hereby certify that the foregoing pages, and incuding this page, contain a true and correct transcript of the proceedings had in the Special Grand Jury as taken by me in stenotype and by tape recorder on the date hereinbefore stated and later reduced to typewritten form to the best of my skill and ability.

Witness my signature and seal, this the 27th day of April, 1985.

William M. Hoppock
WILLIAM M. HOPPOCK
My commission expires 11/4/87

U.S. Department of Justice

EXHIBIT
Respondent's
Exhibit 46

RHW:ab
186-41-169

Washington, D.C. 20530

MAR 5 1985

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 48

Honorable Glenn L. White
District Attorney, Forrest County
Post Office Box 866
Hattiesburg, Mississippi 39401

Dear Mr. White:

I am an attorney with the Public Integrity Section of the Criminal Division of the United States Department of Justice and I am supervising the federal grand jury investigation now underway in Hattiesburg. In that regard I have come to know Drew Fairchild, who I understand is scheduled for sentencing on March 8, 1985 before Judge McKenzie in one of your cases. I am writing to advise you of our relationship with Mr. Fairchild.

Drew Fairchild has cooperated with us in our work. His cooperation has included grand jury testimony that we believe to be truthful as well as his availability for less formal interviews that have proven valuable to the investigation. Because our grand jury investigation is both ongoing and extremely sensitive, we cannot get into the substance of Mr. Fairchild's cooperation at this time. It is fair to say that Mr. Fairchild's cooperation has been very useful to us and we expect it to continue to be useful in the future.

It is our preference that if this letter is to be submitted to the Court for purposes of sentencing that it be submitted under seal and not be made part of the public record.

Sincerely,

Reid H. Weingarten
Trial Attorney
Public Integrity Section
Criminal Division

EXHIBIT
Respondent's
Exhibit 49

[redacted]

MAR 08 [illegible]

Marian Brown
CIRCUIT CLERK

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS NO. 10,041

REDDITT ANDREW FAIRCHILD,
Defendant

MOTION FOR LEAVE TO WITHDRAW PLEA OF GUILTY

NOW COMES the Defendant, Redditt Andrew Fairchild, in the above styled and numbered cause, by and through his Attorney, and moves this Honorable Court for leave to withdraw his plea of guilty and to set aside his previous plea of guilty to the indictment in said Cause, and shows:

That his plea was induced by promises of leniency, that it was not free and voluntary, and for other causes to be shown upon the hearing hereof.

REDDITT ANDREW FAIRCHILD, DEFENDANT

By: Karl W. Kepper
ATTORNEY FOR DEFENDANT

KARL W. KEPPER
P.O. BOX 251
HATTIESBURG, MS 39401
(601) 583-8204

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 49

TT

CERTIFICATE OF SERVICE

This is to certify that I have this day served Honorable Glen White, District Attorney for the Twelfth Circuit Court District with a copy of the foregoing Motion by hand delivering same to him.

This, the 7th day of March, A.D., 1985.

Karl W. Kepper

ATTORNEY

KEPPER & KEPPER
ATTORNEYS AT LAW
Karl W. Kepper
P.O. Box 251
Hattiesburg, MS 39401
(601) 583-8204

EXHIBIT
Respondent's
Exhibit 50

FILED
MAR 2[illegible] 1995
Marian Brown
CIRCUIT CLERK

Filed by Court
on March 8.
1985
L.W.McK.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 50

IN THE CIRCUIT COURT OF FORREST COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS CAUSE NUMBER 10,041

REDDITT ANDREW FAIRCHILD DEFENDANT

ORDER

ON THIS DAY this Cause came on to be heard upon the Defendant's Motion to Withdraw his Plea of Guilty, for the reason that certain inducements had been made to him in order to affectuate a Plea of Guilty, by prior administration, and the Court after considering the same, finds that the Defendant's Motion is well taken and should be sustained.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the previous Plea of Guilty be Withdrawn and a Plea of Not Guilty be entered.

SO ORDERED AND ADJUDGED on this the 8th day of March, A.D., 1985.

CIRCUIT COURT JUDGE

- Memorandum

EXHIBIT
Respondent's
Exhibit 51

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 51

Subject Recommendation to Prosecute
Drew Fairchild

Date MAR 22 1985
186-41-169
JNL:RHW:jew

To Gerald E. McDowell, Chief
Public Integrity Section
Criminal Division

From an Nielsen Little
eid H. Weingarten
Attorneys
Public Integrity Section
Criminal Division

I. INTRODUCTION

On February 22, 1985, the grand jury in the Southern District of Mississippi returned an indictment against Robert Royals and Robert Watkins in the Southern District of Mississippi. A copy of the prosecution memorandum for that case is attached. As explained in that memorandum, Drew Fairchild and Robert Royals were co-managers of the Hattiesburg Municipal Airport at the time of the drug arrest in August 1980. We now seek an indictment against Drew Fairchild.

II. FACTS

Drew Fairchild's role in the drug smuggling conspiracy was to make "arrangements" for the drug smugglers, including arrangements at the airport, at local hotels, at the "stash house" for the marijuana, etc. He was to share a portion of the $20,000 he was to be paid with Robert Royals, who would be present at the airport to assist in the landing and unloading of the planes. Drew is at least as culpable as Royals; he, like Royals, was present at several conspiratorial meetings with the smugglers, and was present at the airport during the preparation of planes to fly to South America. In addition, Drew did make the arrangements for the "stash house," for which he was paid $1,000.

III. PROCEDURAL POSTURE

The focus of the Mississippi investigation has been to a large extent on the handling of the Drew Fairchild drug case in the state and federal systems. The arrest occurred August 4, 1980. In November 1980, Bud Holmes, the Forrest County D.A. indirectly summoned Drew to his office and inquired as to whether he or his father, prominent Hattiesburg businessman Wiley Fairchild, "had any money." When none was forthcoming, Holmes

EXHIBIT A

directed Drew to George Phillips, the U.S. Attorney. The federal government entered into a plea agreement with Drew on November 19, 1980, wherein it was agreed that in return for Drew's cooperation and his plea to felony charges, probation would be recommended. Drew did not in fact cooperate, and by the Spring of 1981, the U.S. Attorney's office viewed his agreement as breached and intended to prosecute him. In the summer of 1981, Bud Holmes sought and received the case from the federal system back into the state system and, in August 1981, Drew Fairchild and Robert Watkins (the pilot) were indicted by the Forrest County grand jury. In January of 1982, Drew pleaded guilty to the indictment in exchange for an oral promise that the state would recommend probation. Drew's case languished in the state system for over three years (in part, we believe, due to Judge Nixon's instructing Holmes in late 1982 to go easy on Drew, this instruction made at the request of Drew's father, Wiley, who had transferred valuable mineral royalty interests to Judge Nixon). On March 8, 1985, Drew was scheduled to be sentenced. On that date the present Forrest County D.A. (and a friend and associate of Holmes) announced that he would not honor the plea agreement and that he would try Drew. A trial date has been set for May 13. Two explanations for this change of heart have been suggested: (1) that the present D.A. and judge could not withstand the public ridicule which would arise from Drew's getting probation, or (2) that the D.A. and the judge (both of whom are close friends of Holmes') have taken this action on Holmes' behalf to punish Drew for cooperating in the federal investigation of Royals (Holmes' former pilot), Nixon, and Holmes himself.

Drew's lawyer has contacted us requesting that we indict Drew federally so that he can plead guilty to a federal drug charge. Under Mississippi law "a conviction or acquittal under federal law . . . for the same act is a bar to prosecution in this state." Mississippi Code §41-29-151. Drew's lawyer is convinced that the only way for Drew to get a fair sentence is for his case to be in the federal system.

IV. ANALYSIS

Clearly we have an indictable case against Drew. The evidence against him is virtually identical to that against Royals, the testimony of the smugglers, Charles Malone and Duffy Nathan, corroborated by telephone toll records (many of which show calls from Malone to Drew's home number) plus Drew's own statements to the FBI in 1981 and to the grand jury and to us in 1984. (The former might be regarded as of a proffer and therefore inadmissible, but the latter, post-plea statements, would be admissible.)

Strategically, the decision whether to indict Drew is a difficult one. The arguments in favor of indicting him are: (1) We need the cooperation of Drew and his father, Wiley, in prosecutions of Bob Royals (presently under indictment), Bud Holmes (whom we hope to indict soon) and Judge Nixon. To the extent that indicting Drew now is desired by both Drew and his father, failure to do so could jeopardize the investigation. (2) Drew is unlikely to get a fair trial or sentence in the state system, given that both the D.A. and the judge are friendly with and, we believe, controlled by Bud Holmes. Justice would require an impartial federal forum, we believe. (3) Drew's case belongs in the federal system. The smugglers arrested at the scene were prosecuted federally, and Royals and Watkins are now being prosecuted federally. Drew was the only person connected with the bust to have a state disposition and the only one not federally prosecuted. Now that the state disposition is gone, there is no reason why his case too should not also be in the federal system. (4) It is in our interest to avoid the state trial of Drew while the Royals case is still pending. This is true because (a) a trial of Drew would involve substantially the same evidence as our prosecution of Royals, which would mean that the D.A. would likely request access to our files on Royals. Given the D.A.'s apparent sympathies with Holmes (and therefore Royals) we believe anything we agreed to turn over would immediately be passed on to Royals; and (b) a trial of Drew would involve testimony from the same witnesses we would use, the drug smugglers, and would therefore generate Jencks cross-examination material for Royals to use at his trial.

There are also valid strategical reasons not to indict Drew, however. They are: (1) Ironically, our indictment of Drew would be a "favor" to him, and it is not in our interest to appear to be helping him too much when he is our witness. To minimize this, any plea agreement we made would contain no "deals" or promises to recommend a lenient sentence, and at sentencing we would lay out the facts of Drew's smuggling involvement as well as his cooperation in as even handed a fashion possible. (2) To the extent that a prosecution of Bud would focus on his "grabbing" Drew's case, by indicting Drew we place ourselves in what looks to be the same posture by "taking" the case from the state. This presumably would never be admissible in a prosecution of Holmes, however, as the handling of Drew's case after Bud left office in 1984 is irrelevant. (3) Similarly, to the extent that we might argue in a prosecution of Holmes that he corruptly let Drew's case drag on for years with no disposition, we undercut our argument as to its impropriety when, right after the state decides to prosecute Drew vigorously, we step in and prevent it. Again, however, there does not appear to us to be any way this evidence would be admissible in a prosecution of Bud.

V. CONCLUSION

On balance we believe the investigation would be best served if Drew's case had a federal disposition at this time. Accordingly, we recommend that the attached indictment be presented to the grand jury in the Southern District of Mississippi.

Attachment

EXHIBIT
Respondent's
Exhibit 52

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
Hattiesburg Division

UNITED STATES OF AMERICA	)	
v.	)	
REDDITT "DREW" FAIRCHILD,	)	CR. No. H85-00005
Defendant.	)	

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
MAR 29 1985
CLARENCE A. PIERCE, CLERK

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 52

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

1. From on or about February, 1980 and continuously thereafter up to and including August 4, 1980, in the Southern District of Mississippi and elsewehere, Defendant REDDITT "DREW" FAIRCHILD together with unindicted co-conspirators Robert Royals, Robert L. Watkins, Charles Malone, Malcolm "Duffy" Nathan, Mario Torres, and Kenneth Hatfield, willfully and knowingly did conspire, confederate, and agree together with each other and with others whose names are known and unknown to the Grand Jury, to import marijuana, a Schedule I controlled substance, into the United States from Colombia, South America and other locations outside the United States, contrary to Title 21, United States Code, Section 952(a).

Means and Methods of the Conspiracy

2. It was a part of the conspiracy that:

(a) Unindicted co-conspirator Robert Watkins, with the help of unindicted co-conspirators Malcolm "Duffy" Nathan and Mario

Torres, would and did agree to pilot planes from the United States to Jamaica and Colombia and back to the United States with loads of marijuana;

(b) Defendant REDDITT "DREW" FAIRCHILD, together with unindicted co-conspirator Robert Royals, agreed to assist in the preparation of drug smuggling planes and the landing and unloading of said planes at the Hattiesburg Municipal Airport;

(c) Defendant REDDITT "DREW" FAIRCHILD and unindicted co-conspirator Charles Malone agreed to make arrangements for the offloading and the storage of the marijuana in or near Hattiesburg, Mississippi; and

(d) Unindicted co-conspirators Charles Malone and Kenneth Hatfield agreed to make arrangements for the sale of marijuana.

Overt Acts

3. In or about the spring of 1980, Defendant REDDITT "DREW" FAIRCEILD met with unindicted co-conspirators Charles Malone. Malcolm "Duffy" Nathan, and Robert L. Watkins, in Hattiesburg, Mississippi to make arrangements for the importation of marijuana into Hattiesburg, Mississippi.

4. In or about the summer of 1980, Defendant REDDITT "DREW" FAIRCHILD made arrangements for the availability of a "stash house" in or near Hattiesburg, Mississippi in which to store marijuana.

5. In or about late July, 1980, unindicted co-conspirator Robert L. Watkins flew an airplane to Colombia, South America, to obtain marijuana.

6. In or about late July or early August, 1980, unindicted co-conspirator Robert Royals was present at the Hattiesburg Municipal Airport and assisted in the preparation and planning for the importation of marijuana into the United States by unindicted co-conspirator Robert L. Watkins.

7. On or about August 1, 1980, Defendant REDDITT "DREW" FAIRCHILD and unindicted co-conspirator Robert Royals drove to the "stash house" and in the course of the trip met with unindicted co-conspirator Charles Malone.

8. On or about the night of August 3, 1980, unindicted co-conspirator Robert Royals was present at the Hattiesburg Municipal Airport waiting for the plane piloted by unindicted co-conspirator Robert L. Watkins to land.

9. On or about the night of August 3, 1980, unindicted co-conspirator Robert Watkins landed an airplane containing approximately 2200 pounds of marijuana at the Hattiesburg Municipal Airport.

In violation of Section 963 of Title 21, United States Code.

A TRUE BILL:

David M. Ward, Jr.
FOREMAN

Reid H Weingarten
REID H. WEINGARTEN

Trial Attorney
Public Integrity Section
Criminal Division
Department of Justice
Washington, D.C. 20530
(202) 724-6974

A TRUE COPY, I HEREBY CERTIFY.
Clarence A. Pierce, CLERK
By:
Deputy Clerk

EXHIBIT NO. G-5. EVID
CAUSE NO. H85-00012(L)
WITNESS Drew Fairchild
PAGES 4

JAN 28 1986

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
Elaine Scott REPORTER

EXHIBIT
Respondent's
Exhibit 53

5/85

Ken,

As I told you over the telephone, I am not sending these copies for anything other than your information. I recognize that things are beginning to move on the investigation and that this is really a trivial matter. My main concern upon first seeing them was that Wiley feels secure enough in his position that he can volunteer you to undermine my credibility. I realize that I jumped to the wrong conclusion and apologize.

By the way, four down (Wiley, Drew, Royals, and Holmes). I'm eager to go after the big prize.

Keep in touch,
Skip

P.S. I would still like to know who wrote the letter to Nola at Thanksgiving.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 53

KWS

W.R.FAIRCHILD CONSTRUCTION COMPANY, LTD.

P. O. BOX 1837 • TEL. 544-1151 • HATTIESBURG, MISSISSIPPI 39401

WILEY FAIRCHILD
PARTNER AND
GENERAL MANAGER

April 16, 1985

Mrs. Elma Manasco
Route 2
Seminary, MS 39479

Dear Elma:

The persons that got Ruth to call Nola thought they were doing the best thing in the long run for Pam and the two kids and you. I know this for a fact.

Ruth didn't have anything to do with the phone numbers that Nola got through the mail, she didn't even know they were being mailed. You would have to have all the information these persons that got Ruth to call had to understand what I am saying.

The information these persons had that got Ruth to make the call believe that had Pam called these two persons, she would never have left Forrest County.

Sometimes things happen for the best. I understand Skip and Pam are closer together then they have been for sometime. That is not only best for them, but certainly best for the kids.

Sincerely,

Wiley

Wiley

WF/kdn

cc: Audrey
Lola
Glydia Mae
Ruth

W.R.FAIRCHILD CONSTRUCTION COMPANY, LTD.

P. O. BOX 1857 • TEL. 544-1151 • HATTIESBURG, MISSISSIPPI 39401

LEY FAIRCHILD
PARTNER AND
GENERAL MANAGER

April 23, 1985

Elma Manasco
Route 2
Seminary, MS 39479

Dear Elma:

Mr. Whitespooner, the FBI agent whom Skip called and gave the information that lead to my indictment, has told me and John Baltar that he would be glad if I would get any of my sisters together that does not believe the above and the below and he would be glad to talk to them or he would call them on the telephone. Also, to tell all of you that the rumor you have been putting out that they have been after Rodney and me since 1975 for smuggling marijuana is false. Also, Mr. Whitespooner said the FBI does not have a brake line that has been cut, which I understand Skip is inferring we had this done to try to get him killed.

I probably could get Mr. Whitespooner and we could have a meeting after the reunion or the next day.

I will only get him if you want to talk to him. I understand my other four sisters know the true story about Skip. There also is a tape where Skip came out to my office and talked to me for an hour trying to get incriminating evidence for the FBI. Elma, I don't have any animosity towards you nor any of my sisters because Skip has told you some untruths and you believed them. Because at one time Skip had me snowed as bad as he has got you snowed. In his attempt to oust me from the Company, he had Jeannie and Little Marie believing him before they would believe me.

Rodney and I have no alternative but to prove those rumors you have been spreading to be 100% false. You, nor anyone else can blame us for wanting to get something straight that has damaged our reputation in the community where we were raised like this has.

I won't go into any other details, but there are several letters I have written to my other sisters explaining in detail the situation that makes a clear picture that Skip's intentions was to take over the Company. These letters will prove Rodney and I never did harrass Skip in any way. What Skip has said about that is also false. The reason Skip would not

Continued on Page 2

take the lie detector test was because he and Johnnie Fairchild were already planning to get me ousted from the Company. Johnnie has admitted this.

Sincerely,

Wiley

P.S. If you want a copy of all the other letters I have sent to the other sisters, just call Mike and I will be glad to send them to you.

WF Mike Moore - 722-4500

cc: Audrey
Lola
Glydia Mae
Ruth
Coy Fairchild
Iris Fairchild
Nola Manasco
Maggie Fairchild
H. B. Hatten
Hubert Sanford
Mack Fairchild
Louis Ingram

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 53A

EXHIBIT
Respondent's
Exhibit 53A

DECLARATION OF MAURICE DANTIN

Maurice Dantin of Columbia, Mississippi, hereby makes the following declaration:

1. In 1985, I served as defense counsel for Paul ("Bud") Holmes in United States v. Holmes, CR. No. H85-00004 (S.D. Miss.).

2. On March 27, 1985, I attended a meeting with my client and federal prosecutor Reid Weingarten. Weingarten informed us at that meeting that Holmes was scheduled for indictment by a federal grand jury in Hattiesburg that week. Weingarten added that Holmes "did not have to be indicted" if he would fill in some gaps in the grand jury investigation. Weingarten said that Holmes is a "savvy guy" who would understand what Weingarten meant.

3. Based on my experience as a prosecutor and on my knowledge of the investigation of Holmes by the federal grand jury in Hattiesburg, I understood that Weingarten was offering not to indict Holmes if Holmes would provide incriminating information about Judge Walter Nixon. Nixon plainly had been the target of the grand jury investigation all along.

4. Because Holmes had in his possession no incriminating information about Nixon, he was unable to take the deal offered by Weingarten.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 24 February 1988

Maurice Dantin
Maurice Dantin

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 54

EXHIBIT
Respondent's Exhibit 54

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 9/26/85

PAUL H. (BUD) HOLMES, accompanied by his attorneys, PATRICK FANNING and JAMES K. DUKES, was interviewed in the offices of the United States Attorney in Hattiesburg, Mississippi, wherein HOLMES furnished the following information:

HOLMES advised that relative to his prosecution of DREW FAIRCHILD while serving as District Attorney, Forrest-Perry Counties, Mississippi, in 1980-1983, former Hattiesburg Attorney BILL PORTER brought DREW FAIRCHILD to his office at a time prior to any adversary proceedings against DREW FAIRCHILD but at a time when other individuals had been arrested relative to a planeload of marijuana landing at the HATTIESBURG MUNICIPAL AIRPORT in August, 1980. The rumor was spreading that DREW FAIRCHILD had been involved in that affair, resulting in his retaining PORTER as his attorney and coming to his office to see what could be done. HOLMES recalled that there may have been a discussion as to whether or not FAIRCHILD could pay a fine. HOLMES advised that he recalled calling the United States Attorney, GEORGE PHILLIPS, and making an appointment for PORTER and FAIRCHILD with PHILLIPS at his office in Jackson. He recalled that at that time PHILLIPS was interested also in another Hattiesburg citizen, ROSCO MOORE, who was rumored to be involved in narcotics matters in Hattiesburg.

HOLMES recalled that in May and June, 1981, Attorney BILL PORTER was in his office on several occasions and recalled PORTER being interested in whether the Federal Government had ever made any cases on ROSCO MOORE. HOLMES advised that PORTER had gone to the U. S. Attorney with his client, DREW FAIRCHILD, and had made a deal with him subsequent to the aforementioned appointment.

HOLMES recalled that during May and June, 1981, PORTER had indicated to HOLMES that FAIRCHILD would not pay him for PORTER's services after PORTER had gotten him out of the aforementioned jam. HOLMES advised that in response to this, he called GEORGE PHILLIPS again and determined that as far as PHILLIPS was concerned, FAIRCHILD had not cooperated, in that he had not worked with narcotics agents in making any cases for the Government. HOLMES recalled that PHILLIPS' posture was that FAIRCHILD had reneged on his agreement with the Government and had done nothing for the Government and, therefore, agreed with HOLMES that HOLMES could prosecute FAIRCHILD locally as well as the pilot of the

Investigation on 6/24/85 at Hattiesburg, Mississippi File # JN 58B-109-775

by SA K. P. WHITE-SPUNNER, JR.,
SA HARRY H. CARPENTER and
SA DONALD M. LAWLESS DML:mcj Date dictated 6/28/85

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

plane that had landed in August of 1980 at Hattiesburg but had escaped.

HOLMES recalled at that time one of his assistants in the District Attorney's Office, KATIE MATTISON, had been in conflict with another assistant, GLEN WHITE, in that WHITE was getting all of the cases to prosecute to the exclusion of MATTISON. HOLMES advised that WHITE was his Chief Assistant and he, therefore, after talking to PHILLIPS, told WHITE to get ready to make a case on DREW FAIRCHILD and to assign it to KATIE MATTISON, which he did.

HOLMES advised that thereafter MATTISON proceeded with preparing a case on FAIRCHILD and the pilot of the airplane, a man named ROBERT WATKINS, and that at a time when she was ready to present this to the grand jury in Forrest County, HOLMES stated that he recalled her calling him at his house at 8 or 9:00 of an evening, informing him that EDDIE DICKEY, a captain in charge of the Southern Division of the MISSISSIPPI BUREAU OF NARCOTICS (MBN) and who had been involved in the investigation of the planeload of marijuana landing in Hattiesburg, was refusing to come and testify before the Forrest County Grand Jury. HOLMES stated as a result he got DICKEY's number from MATTISON and subsequently called DICKEY. HOLMES recalled that DICKEY told him he was not coming because the matter was a federal case and that there had been an agreement with the federal authorities and FAIRCHILD. HOLMES stated that he told DICKEY that at 9 AM the following day, he was going to the Forrest County Grand Jury with this matter and that DICKEY would appear and testify or that HOLMES would consider action against DICKEY. HOLMES recalled that he also talked to the Director of MBN at that time, TOM DIAL, relative to this matter. HOLMES advised that in any event, the following morning DICKEY did show up and did testify before the Forrest County Grand Jury, or that someone in DICKEY's place showed up and testified. HOLMES advised that this testimony resulted in an indictment in Forrest County relative to DREW FAIRCHILD and ROBERT WATKINS.

HOLMES advised that immediately subsequent to the indictment, he told FAIRCHILD's attorney, BILL PORTER, to have his client come up to the sheriff's office and pick up his capias. He advised that shortly thereafter he recalled receiving a call from DREW FAIRCHILD, who wanted to come and talk to HOLMES. HOLMES recalled instructing FAIRCHILD to bring his lawyer with him and also recalled that FAIRCHILD wanted to talk to HOLMES alone. HOLMES stated that he suspected that FAIRCHILD would bring some money and wear some type of recording device in an attempt to entrap him, and that when FAIRCHILD did show up for the interview

JN 58B-109

ontinuation of FD 302 of PAUL H. (BUD) HOLMES On 6/24/85 Page 3

that he got his assistant, KATIE MATTISON, to sit in on the interview with him. HOLMES recalled that this was approximately a five to ten minute meeting in which FAIRCHILD claimed to have cooperated with U. S. Attorney GEORGE PHILLIPS, to which HOLMES stated that he replied that FAIRCHILD should get GEORGE PHILLIPS to tell him that, and he would go forward from there.

HOLMES recalled that in approximately December, 1981, ROBERT WATKINS was located and apprehended in Texas. HOLMES recalled calling Attorney BILL PORTER and telling him that either FAIRCHILD or WATKINS, either one, was going to cooperate with the District Attorney, against the other, suggesting to PORTER that if FAIRCHILD cooperated with the District Attorney against WATKINS, that he would give him the same deal that the government had given him. HOLMES advised that FAIRCHILD did cooperate and furnished an affidavit identifying ROBERT WATKINS as the pilot of the plane that had landed in Hattiesburg in August, 1980.

HOLMES advised that in January, 1982, DREW FAIRCHILD entered a plea of guilty in Circuit Court, Hattiesburg, Mississippi, with a postponed sentence pending FAIRCHILD's testimony against WATKINS. HOLMES advised that he initiated extradition proceedings against WATKINS, and by the time WATKINS was to appear in Texas on an extradition hearing that WATKINS had disappeared.

HOLMES advised that thereafter FAIRCHILD's case went through a number of continuances relative to the sentencing for various reasons, one of which HOLMES recalled that FAIRCHILD had incurred surgery on his back.

HOLMES advised that in May, 1982, at a time when JACK WELDY was still sitting as Circuit Judge in Forrest County, Mississippi, that he recalled going turkey hunting with U. S. District Court Judge WALTER NIXON, JR., at Vicksburg, Mississippi. HOLMES recalled that Judge NIXON was successful in shooting some turkeys and that on their return to Hattiesburg, Mississippi, HOLMES arranged to have the turkeys dressed out and put in a freezer or meat locker at his ranch.

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Continuation of FD-302 of PAUL H. (BUD) HOLMES , On 6/24/85 , Page 4

HOLMES advised that according to his District Attorney's appointment book, on May 14, 1982, Judge NIXON, accompanied by Hattiesburg Attorney CARROLL INGRAM, appeared at HOLMES' office late that afternoon. HOLMES advised that they probably called before coming but that he did not remember if they did or did not. HOLMES advised that all had a couple of drinks at the office and thereafter, he and Judge NIXON left going to his (HOLMES') farm to get the frozen turkeys, with plans to meet with others later at BONNIE AND CLYDES in Hattiesburg. HOLMES advised that while en route to the farm, Judge NIXON said that WILEY FAIRCHILD had told him that he knew that "you and I," meaning HOLMES AND NIXON, were good friends. NIXON stated that FAIRCHILD was worried about his son's (DREW FAIRCHILD'S) case. HOLMES stated that NIXON told him that he would never ask him to go against his oath of office or to go against his office, but that WILEY FAIRCHILD had asked him (NIXON) to talk to HOLMES about his son's case. HOLMES advised that he was surprised at this because he never knew that WILEY FAIRCHILD was interested in his son's case. HOLMES advised that he told NIXON that he had already cut a deal with FAIRCHILD and asked NIXON what does FAIRCHILD want. HOLMES advised that when they arrived at the ranch that they were the only two there and that they had a couple more drinks after arriving. HOLMES advised that at the ranch NIXON relayed to him the fact that WILEY FAIRCHILD was planning to do some more oil and gas deals with NIXON. HOLMES stated that NIXON asked him if he minded him calling WILEY FAIRCHILD and telling FAIRCHILD that he had talked with HOLMES about his son's case. HOLMES stated that NIXON picked up the phone and called FAIRCHILD and said, "Hello, WILEY, this is WALTER, I am out at BUD's. I talked to him about the matter you and I discussed and everything is going to be fine." HOLMES stated that at this point in the conversation, he got on the line with FAIRCHILD and told FAIRCHILD that he was sorry about his boy being in trouble and that he knew that it was not WILEY FAIRCHILD's fault and that there were no hard feelings about it. HOLMES stated that he told FAIRCHILD that the Judge had asked him to do something and that he gave NIXON full credit for everything to WILEY FAIRCHILD.

HOLMES advised that NIXON thanked FAIRCHILD for the opportunity that FAIRCHILD had given him, stating that with five girls going to college, that this helped.

No. __________

UNITED STATES DISTRICT COURT

SOUTHERN District of MISSISSIPPI

Hattiesburg Division

THE UNITED STATES OF AMERICA

vs.

REDDITT "DREW" FAIRCHILD

INDICTMENT

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
MAR 29 1985
CLARENCE A. PIERCE, CLERK
BY __________ DEPUTY

Violation Charged:
21 U.S.C. §963

A true bill
David M. Ward, Sr.
Foreman

Filed in open court this __________ day

of __________, A.D. 19____

____
Clerk.

Bail, $ __________

GPO 863 820

1135

JERRY M. BLAIR
STATE ATTORNEY
THIRD JUDICIAL CIRCUIT
P.O. DRAWER 1546
LIVE OAK, FLORIDA 32060 - [illegible]

JACKSONVILLE, FL 322
PM
19 JUN
1985

S.A. KEN WHITE-SPUNNER
FEDERAL BUREAU OF INVESTIGATION
P. O. BOX 1939
PASCAGULA, MISSISSIPPI 39567

1140

HOLMES advised that although each had had several drinks, Judge NIXON was definitely not drunk on the occasion of the aforementioned telephone call and knew exactly what he was doing.

HOLMES advised that thereafter he and NIXON left the farm and went to BONNIE AND CLYDES, a local nightclub in Hattiesburg, where they joined a group of friends including HOLMES' girlfriend, MARSHA BAILEY; HOLMES' secretary, JIMMIE PACE; and a former professional football player, FRED COOK.

HOLMES advised that relative to the aforementioned oil and gas deal between WILEY FAIRCHILD and Judge NIXON, previously he recalled that Hattiesburg Attorney CARROLL INGRAM had told him that WILEY FAIRCHILD had some oil and gas ventures that he was going to let NIXON invest in.

HOLMES advised that he recalled an occasion when he had had lunch with Judge NIXON and CARROLL INGRAM at the HERRINGTON HOUSE in Hattiesburg. HOLMES recalls that one of the topics of conversation during lunch was INGRAM and NIXON discussing the feasibility of NIXON getting into an oil and gas deal with WILEY FAIRCHILD. HOLMES recalled that NIXON asked him his opinion relative to such an investment with FAIRCHILD and that HOLMES recalled telling NIXON that if he got into an oil and gas deal with FAIRCHILD that FAIRCHILD was the type that would pour oil down a dry hole to make sure the investment did not go sour. HOLMES advised that to the best of his recollection, this luncheon and conversation occurred sometime during the later part of 1980. HOLMES advised that it was his impression that Attorney CARROLL INGRAM had arranged the investment opportunity for Judge NIXON with WILEY FAIRCHILD.

HOLMES advised that relative to the aforementioned telephone call made by NIXON at his ranch, within days he (HOLMES) realized that he had done something that he could not or would not deliver on. HOLMES stated that it had slipped his mind or that he had forgotten that he had allowed DREW FAIRCHILD to plead guilty and that this created a problem in that he would have to let DREW change his plea from guilty to not guilty, something that he could not do, and that he

Continuation of FD-302 of PAUL H. (BUD) HOLMES , On 6/24/85 , Page 6

thought that maybe ROBERT WATKINS, who was a fugitive at that time, would be caught and that the matter would be resolved. HOLMES advised that he realized that he was in a predicament and also recalled that CARROLL INGRAM had called him telling him that WILEY FAIRCHILD was very happy over the aforementioned WALTER NIXON telephone call, FAIRCHILD apparently having called INGRAM informing him of the call.

HOLMES advised that this was at a time when Forrest County Crcuit Judge JACK WELDY was going out of office and that Circuit Judge-Elect DICKIE McKENZIE would soon be taking office. HOLMES advised that DREW FAIRCHILD's Attorney, BILL PORTER, was "raising hell" with him because PORTER was afraid that McKENZIE, on taking the bench as Circuit Judge in Forrest County, would put his client, DREW FAIRCHILD, in jail for five years. HOLMES advised that to his knowledge, BILL PORTER never knew of the aforementioned telephone call that had been made by NIXON. HOLMES further advised that his compromise solution to the aforementioned problem was to pass DREW FAIRCHILD's case to the files in about December, 1982. HOLMES stated that he told CARROLL INGRAM that he was going to do this, got the order drafted up, and subsequently passed the case to the file; and thereafter carried a copy of the order over to CARROLL INGRAM and told him to give it to FAIRCHILD as a Christmas present.

HOLMES advised that it was a matter of weeks after this action that Circuit Judge DICKIE McKENZIE took the bench as Circuit Judge in Forrest County, and the fact that DREW FAIRCHILD's case had been passed to the file became known to the news media in Hattiesburg. HOLMES advised that shortly thereafter he reopened the case.

HOLMES advised that he assumed that at some point in time he would have contacted NIXON, telling him of what he had done or maybe even received an inquiry from NIXON about what he had done, but he has no recollection of doing this.

HOLMES advised that his recollection of his next contact with NIXON in which this matter was discussed occurred in April, 1985. HOLMES recalled that during this month, Judge NIXON had tried to get in touch with hin telephonically after the FBI had interviewed Judge NIXON (April 19, 1984). HOLMES stated that thereafter he recalls meeting with or having conversation with NIXON on two occasions, one of which was a face-to-face meeting in the Judge's chambers in Biloxi, Mississippi, with the other meeting either being face to face or possibly telephonically. HOLMES recalled that Judge NIXON was incensed about the fact that someone had accused him of being involved in the DREW FAIRCHILD matter and during this meeting that Judge NIXON repeatedly told HOLMES that he had never talked to HOLMES or anyone else about the DREW FAIRCHILD case. HOLMES stated that his understanding of this repetitiveness on the part of Judge NIXON was that Judge NIXON's posture was going to be that, "I have not talked to you or anyone about the DREW FAIRCHILD case so be guided accordingly." HOLMES advised his interpretation of Judge NIXON's posture was that the message that NIXON was relaying to him was that "if they ask you about this, I never talked to you."

HOLMES advised that it was during this face to face meeting with NIXON or in the second meeting that he had with NIXON, that NIXON asked him to find out through CARROLL INGRAM if the phone conversation that he had had with WILEY FAIRCHILD had been recorded by FAIRCHILD.

HOLMES advised with this task in hand that he returned to Hattiesburg, Mississippi, and asked CARROLL INGRAM to find out if the call had been taped. HOLMES stated that CARROLL had eventually got back to him and told him that the call had not been taped.

HOLMES advised after this, and at a time just before or early on in the federal grand jury investigation into this matter in Hattiesburg, and at a time when WILEY FAIRCHILD had retained Hattiesburg Attorney, KARL KEPPER, that HOLMES went to KEPPER and asked him if WILEY FAIRCHILD had made mention of any type of telephone calls. HOLMES stated that he was trying to find out if WILEY FAIRCHILD had told KEPPER of the NIXON call.

HOLMES advised that during this period of time that he met with CARROLL INGRAM on several occasions and recalled one particular occasion in January, 1985, at a time when INGRAM had returned from Washington, D. C., and at a time when HOLMES had received a subpoena to appear as a witness before the February, 1985, session of the federal grand jury in Hattiesburg. HOLMES stated that he went to INGRAM at this time and asked him if INGRAM had told the "feds" about the NIXON telephone call and received a positive response from INGRAM. HOLMES said he asked INGRAM if he was reporting to the "feds" as to everything HOLMES was saying to INGRAM and again received a positive response from INGRAM.

HOLMES stated that he then told INGRAM that INGRAM could testify before the federal grand jury in his way and that HOLMES would testify before the federal grand jury in his way and that INGRAM had made a perjurer out of him (HOLMES).

HOLMES stated that he was very shook up from his revelation from INGRAM and that that same night, knowing that Judge NIXON was in Hattiesburg on a trial, called over to the Federal Courthouse and arranged to meet with NIXON downstairs in NIXON's car, after dark, approximately 7:30 to 8:00 p.m. HOLMES stated that he drove over to the Federal Courthouse, parked his car, and got into NIXON's car.

HOLMES stated that he told NIXON what INGRAM had said about talking to the "feds" and about telling the "feds" about the phone call. HOLMES stated that NIXON's response was that he did not know what HOLMES was talking about. HOLMES stated that he asked NIXON if he did not remember the call that he made to WILEY while out at his farm and that NIXON denied everything totally. HOLMES stated that NIXON said that he could not understand why HOLMES had asked CARROLL about the tapes, to which HOLMES replied to NIXON, "because you told me to."

HOLMES stated that at that time, he could see the ship leaving the dock and leaving him stranded. HOLMES stated that he immediately went back to his office in a very worried state and confided all of the foregoing information, for the first time, to his law partner, JAMES K. DUKES.

HOLMES stated that soon thereafter, within 24 to 48 hours, his law partner, JIM DUKES, called NIXON's attorney, BILL GOODMAN, and related the foregoing information relative to the phone call trying to learn what NIXON's posture was going to be. HOLMES stated that GOODMAN told his law partner that there was nothing to it, that BUD had made the phone call and that Bud had "telephonitis."

HOLMES stated that in April, 1985, on the occasion of former U. S. Deputy Marshal SAM PETERSON's retirement party at the BRAODWATER HOTEL on the Mississippi Gulf Coast that HOLMES ran into NIXON at the party and wanted to corner him to find out about NIXON's position. HOLMES stated that he met briefly with NIXON, and that NIXON told HOLMES that he did not know why HOLMES made the call to WILEY FAIRCHILD, stating that HOLMES had picked up the phone and called WILEY and assured him that the deal that had been cut with Attorney BILL PORTER was OK. NIXON held out that the call was totally HOLMES' idea and that NIXON had nothing to do with it. HOLMES stated that NIXON thereafter cut him off and walked away.

EXHIBIT
Respondent's
Exhibit 55

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

SPECIAL GRAND JURY IMPANELED JULY 18, 1984
(A QUORUM PRESENT)

Transcript of the testimony of:

PAUL H. "BUD" HOLMES

Taken on Friday June 28, 1985 beginning at 9:20 a.m.

APPEARANCES:
REID WEINGARTEN
JAN LITTLE
U.S. Attorneys
Public Integrity Section
U.S. Department of Justice
Washington, D.C. 20530

FOREMAN: DAVID MITCHELL WARD, SR.

ASSISTANT FOREMAN: DOROTHY MAE CLAYTON

REPORTED BY:

WILLIAM M. HOPPOCK
Official Reporter per Order
Dated August 31, 1984

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 55

PAUL H. "BUD" HOLMES

Having been called to testify and having first been duly sworn, was examined and testified as follows:

MR. WEINGARTEN:

Q. Your name, sir, for the record?

A. Paul Hardin Holmes.

Q. For the record, spell your last name.

A. H-O-L-M-E-S.

Q. Do you go by the nickname Bud?

A. Bud. Yes, sir.

Q. Mr. Holmes, I know that you are familiar with me and I know that you are familiar with this group, but for the record I'll identify myself. I'm Reid Weingarten and seated to my right is Jan Little. We are attorneys with the Justice Department in Washington.

The ladies and gentlemen before you are members of the Federal Grand Jury seated here in the Southern District of Mississippi investigating allegations of official corruption.

Now, you of course, have appeared before this group before, have you not?

A. Yes, I have.

Q. And for the record, you appeared I believe in July of 1984.

A. July of 1984.

Q. Came back in September.

A. September of 1984 and in February of 1985.

Q. And it is also true, is it not, that you are trained as an attorney and you are an attorney.

A. Yes, sir.

Q. I'm convinced that as an attorney and that as a witness who has appeared before the Grand Jury that you understand your rights and privileges, and you understand that I have a responsibility to tell you them again.

A. Yes.

Q. You have the right not to answer a question which might tend to incriminate you.

A. All right, sir.

Q. You understand?

A. Yes.

Q. You have a right to an attorney.

A. Yes, Sir.

Q. Your attorney can't be in the Grand Jury but can be outside. If at anytime during the proceeding you wish to speak with an attorney you can do that. Do you understand?

A. Yes, I understand that.

Q. In fact, you have attorneys here with you this morning.

A. Yes.

Q. For the record, identify them.

A. Mr. Patrick Fanning of New Orleans, Louisiana and Mr. James K. Dukes of Hattiesburg, Mississippi.

Q. You understand that anything a witness says in the Grand Jury can be used against that witness in a subsequent proceeding.

A. I understand that.

Q. Now, in fact, this Grand Jury returned an indictment against you naming you as a defendant earlier this year, did they not?

A. They did. Yes, sir.

Q. And you were scheduled to go to trial last week?

A. Yes, sir.

Q. In Hattiesburg, in this very courthouse.

A. That's correct. Yes, sir.

Q. Is it fair to say pursuant to a plea agreement between you and the Government, you did not go to trial?

A. That's correct.

Q. But rather you pled guilty to a crime called contempt.

A. That's correct. Yes, sir.

Q. For the record I would like to identify this as Grand Jury Exhibit 6/28 No. 1 indicating June 28 and Exhibit No. 1 and ask if you can identify it.

A. Yes. This is the plea agreement that I entered into Tuesday of -- I believe -- last week.

Q. So the Grand Jurors understand, is it fair to say that the jury had been selected, was in the box ready to proceed with the trial, and then there were discussions between your attorneys and the Government attorneys and this agreement was reached?

A. That's correct.

Q. I ask you to look at what will be marked 6/28 No. 2 and ask if you recognize that?

A. Yes, sir.

Q. And is that the copy of the information that charged you with contempt, and is that the information that you pled guilty to last week?

A. That is, yes, sir.

Q. All right. I would like to read to the Grand Jury the information.

In the United States District Court for

the Southern District of Mississippi, Hattiesburg Division.

United States of America v. Paul H. "Bud" Holmes and the number of the case.

INFORMATION: The United States of America acting through its undersigned attorneys charges that: One, from on or about July 18, 1985, and continuing through March, 1985; in the Southern District of Mississippi, the Defendant, Paul H. "Bud" Holmes, acting unlawfully, willfully, and knowingly, did commit acts of misbehavior in the presence of the Grand Jury empaneled in the Hattiesburg Division of the Southern District of Mississippi, convened on the order of and acting under the supervision of the United States District Court for the Southern District of Mississippi and did commit acts of misconduct so near to said Grand Jury and said Court to obstruct the administration of justice.

In this regard, the Defendant Paul

H. "Bud" Holmes (a) inquired of others whether they had discussed a telephone call with Federal authorities so as to be able to tailor his own Grand Jury testimony. (b) Testified falsely in the Grand Jury on February 21, 1985 that the reason he did not advise the Grand Jury about the aforementioned telephone call previously was "It did not come across my mind." And he "Didn't put any significance to it." And (c) Refused to disclose the substance of the aforementioned telephone call when on February 21, 1985 he falsely testified before the Grand Jury that he did not remember what was said during the call.

All said acts done by the Defendant Paul H. "Bud" Holmes to manipulate and interfere with the Grand Jury investigation by preventing the Grand Jury from receiving relevant evidence in violation of Title 18, U.S.C. Section 401.1.

Mr. Holmes, is it fair to say that this information was modeled after or taken from Count 1 of the indictment that charged you with the obstruction of Justice?

A. That would be correct.

Q. Now, let me read to the Grand Jury Exhibit 6/28 1, which is the plea agreement, and captioned United States of America v. Paul H. "Bud" Holmes.

PLEA AGREEMENT: The undersigned have agreed as follows: One, that the Defendant Paul H. "Bud" Holmes will plead guilty to the crime of contempt in violation of Title 18 U.S.C. Section 401.1.

Two, the United States retains the right to allocute at the sentencing.

Th[illegible] the Defendant Paul H. "Bud" Holmes will provide complete cooperation with the United States, that is he will provide complete and truthful evidence in testimony to the United States in interviews and before the Grand Jury and, four, the Defendant Paul H. "Bud" Holmes agrees that any representations that he makes during this cooperation can be tested by the United States with a polygraph examination.

Five, the United States will make known to the sentencing Court any and all cooperation the Defendant Paul H. "Bud" Holmes provides.

Six, the United States will move to dismiss the indictment pending against the Defendant Paul H. "Bud" Holmes in the above captioned case.

Seven, the Defendant Paul H. "Bud" Holmes will not be prosecuted by the United States for any offense the facts of which are now known to the United States.

Eight, the United States retains the right to prosecute the Defendant Paul H. "Bud" Holmes for perjury with regard to any future testimony given by the Defendant Paul H. "Bud" Holmes.

Nine, pursuant to Rule 11(e) 1(c) of the Federal Rules of Criminal Procedure, the United States and the Defendant Paul H. "Bud" Holmes agree that should the Court decide to impose a term of imprisonment, the sentence of no

more than one years imprisonment would
be appropriate disposition of the case.
Signed by the parties.

Does that fairly state your understanding of the plea agreement between the United States and you?

A. Yes, that is my understanding.

Q. In connection with your testimony today, Mr. Holmes, do you understand that should you testify falsely, of course, you could be prosecuted for perjury?

A. I understand that.

Q. And is your testimony immunized this morning?

A. It is not.

Q. And what does that mean?

A. Immunized means that the Government could not go forward against me for any crimes which you might learn of.

Q. But you're not immunized.

A. I'm not immunized. They can indict me right now.

Q. And can use against you anything you say.

A. That's correct. Anything I say today you all can use against me in a trial or an indictment.

Q. Now, I would like to ask you some questions this morning about the Drew Fairchild case.

A. All right, sir.

Q. Your involvement in it, and then any knowledge you have of Wiley Fairchild's relationship with Judge Nixon.

A. All right.

Q. First, I know we have asked you about this in the Grand Jury before. Explain just once more your interest in Drew's case, how it evolved and your relationship with the United States Attorney's office about Drew's case.

A. All right, sir. My original knowledge, of course, with the Drew Fairchild case was when the -- let me back up. I can't answer it -- I'll try to narrow, I'll be glad to narrow it down --

Q. Maybe another question --

A. -- my original knowledge was the rumors I had heard about activity out at the airport.

Q. Maybe more narrow questions.

A. All right.

Q. There came a time, did there not, when there was a bust at the Hattiesburg Airport?

A. That's correct.

Q. That's August, 1980.

A. That's correct.

Q. Is it fair to say that originally the case was handled by the Federal Government?

A. That's right. The Federal people made the arrest in conjunction with the State people and they took everybody to Gulfport. Drew Fairchild was not arrested at that juncture. Subsequently the investigation revealed that he was involved, and he was carried to Jackson.

Q. And Drew had a relationship with the United States Attorney's office in Jackson?

A. That's correct. I would say, if I may, in reading Drew's testimony, that Bill Porter brought him by the office. This is my belief today. He brought him by the office, and if Drew said that I called and made an appointment with George, I would think that is true. That, and that I called up and that Bill Porter then took Drew to Jackson and a plea arrangement or plea bargain -- whatever they worked out -- was then done. Of course, I was extremely close to George Phillips.

Q. You're making reference to a meeting that was one of the charges in your indictment --

A. That's correct.

Q. -- that you had with Drew before he went up to Jackson.

A. That's correct. Yes, sir.

Q. Is it fair to say that if the case had been handled exclusively by the Federal government in the normal course you would have made a report to your local Grand Jury that it was being handled by the Federal government and there would be no local indictments?

A. That's correct. If George Phillips had told me that "We are handling it, and we have got arrangements worked out" then it would have been brought to my Grand Jury.

I was going to bring my Grand Jury the fact that a drug bust had taken place and that it was being handled and had been handled in the Federal court system.

Q. What prompted you not to do that but rather to indict Drew and Watkins, the pilot?

A. George Phillips told me that he had not cooperated and that I could go ahead and proceed on with the case in Forrest County and that the pilot, Watkins, had never been arrested or apprehended and go ahead and indict him, too.

Q. What would have peaked that conversation with George, what --

A. What caused it?

Q. Yes.

A. Bill Porter was in griping about the fee.

Q. And Bill Porter was a friend of yours?

A. Very close friend, yes, sir.

Q. And his fee from Drew Fairchild, I take it.

A. That's right. He was griping. I found out later that Bill sued him for his fee, and Bill was in there fussing about it, and I remember that, Bill had worked out something for Drew that I thought was -- sounds like to me like a real good deal -- and Bill told me that Drew never had even paid him, I said, "Well, I'll be durn." And I called into it and I inquired into it, primarily to help Bill collect his money.

Q. And also you had a legitimate interest, I presume.

A. I was going to present it anyway. That part of it didn't, that wasn't the controlling factor~~, but~~ that was the thing that initiated me to call George.

Q. Speaking about Porter, in the course of criminal discovery, you received certain transcripts of witnesses who testified in the Grand Jury, did you not?

A. Yes.

Q. And you read certain things a certain witness said about Porter's death, is that fair?

A. Yes.

Q. I know you testified about Porter's death. Why don't you clear the record one more time. What is your understanding of what happened to Bill Porter?

A. Bill Porter drowned as a result of an airplane crash off of Freemason Island in which three of us swam out and we got part of the debris and the Coast Guard came out that night.

The next day there was an intensive investigation taken place to go out to drag for it. The insurance company that owned the airplane made an intensive investigation of the thing. The local group -- Dempsey Lawler -- formed some type of committee and they all went down there.

There were two eye witnesses on the island, Mr. Veazey and his wife, who saw us crash. Mr. Veazey held a light on us the whole time while we swam, swam for about an hour and a half.

Q. You have no doubt that it was a tragic accident and that Porter has died?

A. No doubt at all. May I make one other comment?

I noticed that in one of the testimony, and I don't resent anybody that testified to anything, made mention that there was $365,000 worth of insurance. If there is, I have no idea about it. I'm sure the widow would like to know where it is, if it is. The estate is right over in the Chancery Court office. Anybody can go look in it. If there is any insurance on the plane -- I mean for them -- I don't know it.

I represented Mary and I got her a settlement in a case that was pending for over a million dollars I associated with Bill in, and I didn't charge the estate one penny for anything I have done for them in the case.

Since the investigation started, I turned everything over to John Mark Weathers, who is President of the bar and also former district attorney; but there is no insurance, there is no credit life insurance on Bill Porter.

Q. Is it fair that in this community a number of rumors have swirled around the Porter situation?

A. Yes. Yes. I have been the subject of every rumor in world on this, saying that it was a cocaine bust. Leonard Melvin has told people he had breakfast with Bill Porter out in Las Vegas, and I can sit here and name you every kind of rumor in the world. "He's down in South America."

If Bill Porter is alive, then I will be willing to go to jail for the rest of my life and you all can put me in chains. I would be willing to give up because I invited Bill to go, I've always felt very, very responsible, you know, for his death and I still feel responsible for it.

Q. You also read in preparation for trial, Burgin's testimony, Bill Burgin.

A. Yes,

Q. Was there references to an airplane crash in that testimony that you would like to clarify?

A. I checked that out where Bill accused me of killing Charlie Sullivan. He said that airplane was in good shape, everything. A pilot who was up there checked out and he said the plane was a piece of junk, and that Charlie Sutherland had flown over to Oxford -- he was with his girlfriend that afternoon -- that evidently she had given him the heave-ho and he was evidently drinking -- Charlie was known to have a severe drinking problem -- and flew to Memphis.

Bill Burgin testified that he fueled up in Memphis. According to the FAA reports and everything, he flew into Memphis, he couldn't get his landing gear down, and circled the airport, radioed that he couldn't get his landing gear down, going back to Clarksdale.

Speculation is that he had his head underneath the dash trying to pump to get the landing gear down on the plane and he just crashed short of the runway.

The family did not want an autopsy, I'm sure because they knew the facts of what the blood alcohol would show on him.

There has never been any allegation or suggestion, but Bill Burgin come in here and said he landed the plane and all these things. That just would not bear out with the FAA report.

Q. I don't think Burgin specifically accused you of wrong doing, but made an inference or a reference that there was foul play.

A. I apologize. I'm sensitive everytime I read things I guess you get in a small community you become the brunt of every rumor in the world.

Q. The Grand Jury has heard some evidence about a Dr. Shows or Shows, S-H-O-W-S.

A. Right.

Q. Why don't you just clarify for the Grand Jurors what your understanding of Dr. Shows' case is, where and how it was handled in the Federal Court, and what your role was?

A. All right. My first knowledge of Dr. Shows was when he and his daddy showed up at my house on Sunday morning, said Wiley Fairchild had sent him to my house. He was in a squabble with Jim McIntyre, an attorney in Jackson who had been representing him and he had not paid Jim. Jim -- I believe -- was suing him for his fee.

He needed an attorney. He had what we call a Rule 35, that is after you're sentenced in Federal court, you have a right in so many days to go back into court and ask for a reduction of sentence.

Q. Let me ask this.

A. All right.

Q. Dr. Shows had been convicted in Federal court of false prescriptions, something like that?

A. I think it was stealing cars. I think he had stolen some cars.

Q. It was not drugs?

A. I don't believe so. No, sir. I believe that they pulled his license up and I believe it was involved, something in the back of my mind, involved a Cadillac automobile that they had in Jackson. I remember he was crazy about this old car.

Q. Did this man come to you pursuant to Wiley's advice?

A. That's what he told me. He said he had worked his way through college working for him or something.

Q. What Judge had he been convicted in front of?

A. Dan Russell.

Q. Not Judge Nixon?

A. No, sir. To be frank, I din't know that until I went and got my file and here it was that I filed the motion and Judge Russell didn't cut it one minute.

I called Dr. Shows asking him about a $10,000 check, and he said that was used to pay off Jim McIntyre.

Q. Was the check made out to you and then you shared with McIntyre, or do you remember?

A. If you showed it to me. That's been

what, seven, eight, nine years ago. Dr. Shows told me that.

Q. All right. So, summarizing, is it fair to say that you only got in the case after the conviction?

A. That's correct.

Q. He had been convicted by a jury in front of Judge Russell, not Judge Nixon.

A. Yes, sir. I believe in Meridian.

Q. In Meridian.

A. I believe so.

Q. Shows had come to you pursuant to a suggestion from Wiley Fairchild.

A. That's right.

Q. And that if, in fact, $10,000 was paid to you, you shared some of the money with the former lawyer who tried that case.

A. I'm sure I did, yes, sir. I'm sure I had to pay him in order to get him to go on with the appeal down in the Fifth Circuit. I would assume I got some of it. I might have given the whole ten to Jim McIntyre. I don't remember.

Q. All right. Moving on to a different subject. This Grand Jury indicted Robert Royals for being involved with Drew Fairchild in the smuggling out at the airport.

A. Royals?

Q. Robert Royals. The question I have for you is why in the course of your duties as D.A., and the course of your involvement with Drew's case, why wasn't Royals prosecuted locally?

A. Okay. Any time I go to Court or in State Court you always ask the law enforcement officer, "Who do you want indicted?"

They did not ask to indict or to proceed against Royals. Subsequent to my first Grand Jury appearance, I saw agent Mike Tyson in front of the Post Office and I told him about the question propounded to me about Royals and I asked him why didn't we go against Royals and he said, "We did not have a case against him. That's why we didn't ask."

If they had asked, I would have indicted.

Q. Let me ask you this: Did you follow Royals' trial closely?

A. No, sir. I tried to stay away.

Q. Did you have some idea what was going on in Court?

A. Just street talk.

Q. And you knew, I take it, that Drew testified against Royals.

A. I believe I read that, yes, sir.

Q. Now, you had secured Drew's cooperation to go against Watkins. The question is: Why would you have not included in Drew's responsibility testimony against others, including Royals?

A. If I had known or if anybody had brought it to my attention that Bob Royals was a party to it and that they wanted to go against it, then I would have.

Q. Let me ask you --

A. There has never been any hesitation on my part for any reasons to go against Bob Royals.

Q. Let me ask that question. Was friendship or any sort of relationship with Royals the reason you didn't prosecute?

A. No, sir. In no way.

Q. Now Judge Nixon. Describe, in first general terms, your relationship with Judge Nixon.

A. Just extremely good friends. I go so far as to say when I buried my mother a little over a year ago, he flew in here to sit with me and the family.

Q. One of your closest friends?

A. I would say, yes, sir.

Q. How long have you had this relationship with him?

A. Going back to the early 60's.

Q. And is it fair to say you share with him things that are important to you, and he shares with you things that are important to him?

A. I would think so, yes. I'm extremely close to him. Whenever he went through his divorce, and of course when I went through my divorce, he was very friendly with me during that period of time.

His children, his son particularly, came up here and went to Southern. I kind of looked after him. His son worked for me, learned to fly an airplane as a matter of fact, flying right seat in a jet that crashed in Baton Rouge and he got out of the airplane flying. We've maintained just very close.

Q. Lots of plane crashes in Southern Mississippi.

You share confidential information with Judge Nixon, personal information?

A. Yes, sir. On a personal basis.

Q. It's well beyond a typical lawyer-judge relationship?

A. Yes, sir. It goes to a very deep friendship. I consider him a very deep personal friend.

Q. Have you done things for him -- favors for him?

A. Yes, sir.

Q. Give us an example.

A. Well, when he had his house up for sale, I helped get someone to buy. When he was trying to he was needing to sell it, get some money -- he had two lots down there he was needing to sell -- and I encouraged a fellow to buy it from him.

Like I say, I got his son a job in the flying point of view.

His daughter one time, I believe, bought a car from us out at the Buick company and she had a lot of trouble with it, and I know we took it back in. I probably wouldn't have done that just for anybody on the street.

Q. Was there a time when you owned a plane?

A. Pardon?

Q. Was there a time or do you now own a plane?

A. No, sir.

Q. Was there a time when you owned a plane?

A. Yes, sir. We owned the airplane and when he and his wife got married, they went to San

Francisco -- I sent them out there -- I then met them back in Las Vegas -- this was on their honeymoon as I recall -- and came back over there and he stayed with me at the Holiday Inn, which is where our place was and as I would do with everybody, I picked up the tab there for that.

Q. For the airplane, too?

A. Oh, yes, sir. I never would charge him. When we were at a judicial conference -- the other judges and Senator Eastland -- I flew back and forth and around and I know I paid -- I never let anybody pay for those trips.

Q. Football games?

A. Yes, sir. He'll go over to Saints to ball games, he and his family.

Q. Do you have season tickets?

A. Yes, sir. I represent John Mecom and I represent the New Orleans Saints and because of that, I have a suite on the 50 yard line and I'd always have tickets.

Q. You shared them with him a number of times?

A. Yes, sir.

Q. And the Grand Jury has heard some evidence that Judge Nixon had a building that he owned in Biloxi that housed his former law practice that he was attempting to sell. Did you make any efforts on his behalf?

A. Yes. I talked to Carroll Ingram, like I told the Grand Jury about that. I talked to Willy Denton, I know, about buying from him, probably more of a joke than a hardcore.

I talked to Tommy Boutwell about buying it. Tommy's wife was a beautician and so was Judge Nixon's wife now, and I believe she used to have a shop in there and Tommy looked at it and decided he couldn't use it. I made efforts, yes, sir.

Q. One of the counts in the indictment charged that you weren't truthful with the Grand Jury when I asked you certain questions about the building and, of course, Melvin's name came up later.

Do you recall having any conversations with Melvin about the building?

A. Mr. Weingarten, I've read Mr. Melvin's testimony. Very possibly I could have had conversations with him, but it wouldn't -- in all fairness to everybody -- I don't think it was at the instruction of Judge Nixon. It would have been -- I want to say through Gene Clark.

Q. Okay.

A. But to tell you the truth, I read Sarah Entrekin -- I would believe Sarah Entrekin and Sarah said I did, then I -- I don't.

Q. Then that would have been consistent with making efforts around the community.

A. Yes, sir. I've tried to.

Q. Has he ever stayed with you at your home?

A. Yes, sir.

Q. "He" meaning Judge Nixon?

A. Yes, sir. Its been a number of years that he has. I asked Marsha, as a matter of fact last night about it, and she said she couldn't remember him being out there in five years. Jim Dukes, my lawyer and exlaw partner, he said he stayed out there with me in the last year or two. I just don't.

Q. When he comes and goes to Court, "he" meaning Judge Nixon in Hattiesburg, does he typically stay with you or does he stay in a motel?

A. No, sir. No, sir, he stayed at the Hampton House. Marsha said the last time she remembers us doing anything is she said she picked him up from work -- that would have been well over a year ago -- and picked him at the Ramada Inn and I was somewhere else and he came out to the farm and then we went out to eat and took him back to the Ramada.

Q. Have you taken him hunting and fishing on occasion?

A. I have gone with him. Judge Nixon generally gets invited up to excellent hunting places and he lets me go with him.

Q. He does things for you as well.

A. Yes, sir.

Q. Just explain that a little bit. Are you a hunting enthusiast or fishing enthusiast?

A. I'm primarily a quail hunting enthusiast. He fixed me up with I know of two trips up to the T-Bar P Ranch which is a camp -- if there's anybody here from Madison County -- which is where an old Southern plantation is and people out of Chicago own it, and you just don't get on there to hunt because it's probably the best hunting in the State, but Judge Nixon I know arranged two trips where we went up there and rode horses and all that.

I've been to Eagle Lake with a fellow named Larry Crow. Larry Crow has got probably the finest deer hunting and all that. I know he let Walter Payton go up there and hunt. He carried me up there and he carried me to T. C. Null's, which is over in Alabama one time, but he extends invitations to me.

Q. Hasn't he taken you to Destin as well?

A. I've been to Destin, Florida on I know one or two occasions, two occasions.

Q. Does the relationship or in terms of your responsibility as a lawyer, do you sometimes have cases in Federal court?

A. Yes, sir. Its been -- oh gosh -- at least six years now since I had a case of any kind in front of him.

Q. All right. When you would have cases in front of him, would he provide you with small benefits?

A. Oh, yeah. I could walk in his chambers there and they will always be nice and always give me coffee and very, very chummy and buddy-buddy with all of them. Different ones bought cars from me.

Q. Won't sometimes your cases be called earlier?

A. Oh, yes. I could probably -- if I was running late or just didn't want to fool around -- I could throw my weight around, so to speak, and he would be willing to let me.

Q. Has he ever -- "he" meaning Judge Nixon -- ever done anything substantive in terms of helping you in a case, like helping with a verdict, helping you with the law?

A. No, sir. He would kid with me -- I know I've been thinking about this and talked about it -- I got a $400,000 verdict one time -- a jury verdict -- and I know that he kidded with me about the thing, you know, saying that I should have -- you sitting right here picking at me about different things. He would do that, I would say. That's all I can think of. That had to be strictly a joke because the thing was appealed and affirmed.

Q. He never fixed things substantively for you, but might have provided you with small procedural benefits. Is that a fair way to say it?

A. I think it would be an an unfair statement to say that he ever did anything from the bench that would have given me unfair advantage. The advantage I would have would be the unknown of the defense attorney thinking that Judge Nixon and I was close, and that if it got to the 50-50, he would lean my way. I could not name a case when that happened, but I'm sure that is the Defense's point of view.

Q. So you're saying there may have been a psychological advantage with the perception of the legal community that you and the Judge were close, but that that perception never manifested itself in Judge Nixon fixing a case for you.

A. Right. I would be totally dishonest if I said I ever knew of a thing that he did from the bench that aided me in a case.

Q. Now, has he done things from the bench in his official capacity that may have helped you personally, in your personal life, like I reference your relationship with Marsha Bailey?

A. Yes, sir. Marsha Bailey got fired by Karl Nicholson and and I was trying to get her rehired and he wanted to aid me any way he could.

So, I had a conversation with Robert Jackson, who was called Nicholson's attorney and a close, close friend; and Robert had tried to get him to hire her back also.

Judge Nixon called or summoned us over there and we came and he told Robert that he was very disappointed in what Karl Nicholson had done and that he couldn't understand it and that from time to time people have cases in his court involving tax and CPA's will have clients and that he could see himself having difficulty wanting to have compassion for one of his clients if this man's idea of compassion was what it was.

Q. So, just summarizing --

A. It was a vail threat to Robert Jackson.

Q. Is it fair to say that -- because you said it rather quickly -- that your friend is Marsha Bailey and she's an accountant.

A. CPA. Yes, sir.

Q. She was working for an accountant in Hattiesburg named Nicholson.

A. That's correct.

Q. They had a dispute over certain matters and Nicholson fired Marsha Bailey.

A. That's correct.

Q. You weren't happy about it, and Judge Nixon learned about that situation from you.

A. That's correct.

Q. And Karl Nicholson's lawyer is an attorney here in Hattiesburg named Jackson.

A. Robert Jackson.

Q. Is it fair to say that Judge Nixon summoned the attorney, Jackson, to his chambers here in Hattiesburg -- or was it in Biloxi?

A. No, sir. It was here.

Q. It was here?

A. Right.

Q. And were you present at that time?

A. Yes, sir.

Q. Is that when Judge Nixon had this conversation with Robert Jackson about Nicholson?

A. Yes, sir.

Q. Is it fair to say that the effect of it was to try to put pressure on Jackson to put pressure on Nicholson to rehire Marsha Bailey?

A. That's correct.

Q. What did Jackson say, do you recall?

A. What did he do?

Q. Or what did he say or how did he respond?

A. Best thing I remember Robert -- who is very timid -- might have said "Yes, sir." If he said more than "yes, sir" I would be surprised, and I think he told him that he agreed that Nicholson was wrong and he had tried to talk Nicholson out of it because Nicholson consulted with him ahead of time and for the benefit of it, Marsha and Nicholson are back real close friends; Nicholson even offered her a job to come back in a partnership form out there.

Q. This was sometime ago?

A. This would have to be --

Q. Were you D.A. then?

A. No, sir.

Q. It would have been before that.

A. It would be at least six or seven years.

Q. Now I would like to turn the conversation to Judge Nixon's relationship with Wiley Fairchild.

A. All right.

Q. When is the first you learned that there was such a relationship?

A. I went -- I want to say that we were eating supper with Carroll Ingram and Jolly Mathews and Judge Nixon -- I think there was four of us out at the Herrington House -- and somehow it was brought up that Judge Nixon was going to buy some mineral interests from Wiley Fairchild or that he was going to invest with him. Now, that's best as I recall.

Q. Do you recall any instances prior to that wherein you might have discussed Wiley Fairchild with Judge Nixon?

A. Either prior to that or subsequent to that, Judge Nixon asked me if I knew Wiley Fairchild and what was the story on him. I remember I was shocked because I thought everybody knew Wiley

Fairchild, and as politically attuned as Judge Nixon is, I'd assume that he had many contacts with him over the years, but I did not get the impression that he had ever even met him when we talked.

I explained to him that Mr. Fairchild had a history, hobby, habit or whatever you want to call it, of getting next to people in power, politically, judicially, president of the universities, banks and that's -- I say that's his hobby.

Q. Does he sometimes use his wealth to accomplish that?

A. That's how he accomplishes it. It would be through donations or just getting close. Wiley has never lost a governor's race that I know of, and so whenever he asked me about it, I'm sure I would have explained that, I would have told Judge Nixon that, "If you are going to invest with Wiley Fairchild, there ain't no way you're going to lose money with it."

Q. Did you follow the events of the investment?

A. No, sir.

Q. Were you plugged into how the investments worked?

A. No, sir.

Q. Would you know anything about the back dating of documents?

A. Only what I have learned since then.

Q. You didn't know it contemperaneously?

A. No, sir.

Q. When do you recall is the first time you actually learned of the accomplished relationship between Judge Nixon and Wiley Fairchild?

A. Well, I knew that he had gotten some investments with him, and the first time I ever knew that it was any more than whatever Carroll Ingram had put together for him was the day on the way out to the farm -- the day of the phone call -- of anymore than just a business type relationship, first time I ever heard anything that was personal.

Q. Why don't you begin from the beginning of that day and explain to the ladies and gentlemen how it came about that you saw Judge Nixon and what transpired thereafter.

A. All right, sir. Would it be appropriate for me to apologize to them for telling them what I did?

Q. Okay. I think it would be if you would like to. Let me start here: Is this the subject matter that relates to your guilty plea?

A. Yes, sir.

Q. And is this the subject matter wherein you were not truthful with the Grand Jury the last time you were here?

A. Yes, sir.

Q. You're certainly free to apologize.

A. Ladies and gentlemen of the Grand Jury, I want to apologize to you. I did lie to you. I did it because I guess I'm weak. I'll take 100 percent responsibily for it. I know you all have worked very hard, and you're entitled to more than have somebody come up and tell you that.

The whole motivation of the thing was doing what I thought was proper, and I tried to cover up for a friend -- something that needed no covering up -- but I did cover up for him. Thank you.

Q. Who is the friend?

A. Judge Nixon.

Q. All right. Why don't you tell us what happened that day?

A. All right. Judge Nixon and I had been turkey hunting up at Vicksburg. He had to go on to Meridian. He asked me if I would bring his turkey -- two of them as I recall -- back to

Hattiesburg, and he would pick them up when he was coming through Hattiesburg.

Subsequently, he was in Hattiesburg, and he and Carroll Ingram came by my offices on a Friday afternoon. We were shutting down the office, we shut it down, we sat there, and we had a couple of drinks in the office, left the office to drive out to the farm.

The other people there in the office -- I remember Fred Cook, who I represented Fred in past years and he played defensive end with the Baltimore Colts for a long time -- Fred Cook was there, and so the group left going out to Bonnie and Clyde's -- that's a local night spot or joint, whatever you want to call it.

Judge Nixon and I road out to the farm, and on the way out to the farm, he told me that he and Carroll had been out at Wiley Fairchild's and that he was getting ready to make another investment or was getting in on some more investments or words to that affect.

Judge Nixon told me, he said, "Bud, I never would ask you to do anything against the oath of office. I never would ask you to go against anything that wouldn't be right. I wouldn't ask you to do anything that would embarrass you."

And I'm driving, he said, "But Wiley asked me to say something to you about helping his boy." And to be frank, I had a couple of drinks and I was feeling real good at that point, and I said, "Well, Judge, what you want? What you want me to do? Doesn't matter to me."

And he said, "Well, Wiley asked me to say something to you." And I said, "Okay. What's you want?"

And he wasn't insistent or anything and I took the bull by the horns and I said, "Hell, I don't care. If it will help you, I will be glad to pass it to the file."

Of course, he was reluctant and he kept saying, "No. I don't want you to do anything that would be embarrassing or anything."

I said, "Hell. I'm the District Attorney, and if I want to pass it to the files, that's up to me."

And I guess the nicer he got the more bolder I got on the thing; and we got got to the farm, we went inside, got the turkeys, I assume -- we might have gotten them on the way out -- but anyway, after we got inside, had another drink -- I remember we had some Royal Salute, a 25-year old stuff that Senator Eastland always drank, and he would always kid everytime that we go out there -- I said, "Judge. Can I fix you a drink?" He'd always say, "If you don't have any Royal Salute, I ain't drinking." That's extremely expensive and it's just kind of a standing joke. I said, "I got some Royal Salute. Come on in."

He came in, we sat there, and I recall had a drink or two. Then the Judge said, "Is it all right if I call Wiley and tell him you are going to help his problem?" "Yeah. Go ahead and call him. That's fine. Sure."

So he called him, and the conversation went something like, "Wiley? This is Walter. I'm out at you-know-whose house, talked to him, and happy to report to you that your boy is going to be okay, and that he's going to help your boy."

And he told him about, that as a Judge making it and that with his children's situation, that he had a difficult time making it, and that he just needed outside investments and he appreciated the opportunity to be associated with him, and maybe -- I know he said "associated with you" in this -- and I sat there and I said, "Well. Let me speak to him."

And so I took the phone and I said, "Mr. Fairchild" I said, "I hadn't had a chance to talk to you. I hope you didn't think anything was personal about your boy." And I don't recall what the response was and I told him, "I want Judge Nixon to get full credit."

The truth of the matter was that I pretty well made the same agreement with Bill Porter, but I wanted Judge Nixon to get the full and complete credit in Mr. Fairchild's mind because it was obvious that he was doing these oil and gas deals with him and I wanted him to be able to continue on with him and maybe get in stronger with him.

So he said something and then I told him that "If anything that this man asks me to do, I'm happy to do it."

Mr. Fairchild says that I said if he tells me to do something I'll do it. I could have said that. But the context of it was that this is my good, close dear friend; and if he asked me to do something, I'm going to do it.

I handed the phone back to the Judge and we left and went on back to Hattiesburg and went to Bonnie and Clyde's, drove him to his car, and he left to go back to Pascougala -- excuse me, I mean Ocean Springs.

Q. What's your best recollection of when that conversation would have taken place?

A. Okay. It was like I told you all, it was on Friday -- during turkey season or following turkey season. According to the calendar I've got in my office showed Carroll Ingram and Judge Nixon coming by my office on May the 14th I believe. Whatever the calendar shows.

Q. And you tied that to the conversation?

A. The next day I went to a wedding up in Jackson.

Q. Are you fairly certain that those events are connected to the evening of the call?

A. Yes, sir. Because when we got to Bonnie and Clyde's, Marsha and my secretary got in a hair-pulling contest.

Q. There is no reflection on your calendar about the telephone call or Judge Nixon coming out to your farm.

A. No.

Q. You were just associating events as best you can.

A. Yes.

Q. Was there anyone present in your house at the time the call was made?

A. Marsha met her daddy out there.

Q. But no one witnessed the call other than you and Judge Nixon.

A. That is all.

Q. What was the posture of Drew's case at that time?

A. He had already pled guilty and waiting on Watkins to come back so he could testify and I could sentence him.

Q. So he had pled guilty, you had this agreement with Porter, and there was going to be a sentencing down the road.

A. That's right.

Q. What did you do with the case following the phone call that you witnessed or participated in?

A. If I'm not badly mistaken, Carroll Ingram mentioned the phone call to me shortly after that and told me that Wiley was on Cloud Nine or something and he really appreciated it and I hadn't done a thing. He had already pled guilty.

I said, "My God. I have let my mouth overload my fanny." Because see, the thing was: It was already in the Court system, he had already pled, you know, it was on the record, and the only way to really done what I said I'd do, I'd have to go get Drew, bring him into open court, let Drew withdraw his plea -- and I'd have to agree to let him withdraw his plea -- go back to not guilty, and then pass it to the files.

So, I took the normal way out. Just like the ostrich, I put my head in the sand.

Q. And you did nothing with the case.

A. Did nothing. I was waiting on Watkins to come in.

Q. Once Drew had pled guilty it was tough to dump the case.

A. Well, there's no way -- not without getting totalled. I mean, I wish I had done it now. You can't get no more ruined than I am right now in my own community, but at the time I just didn't, you know, that's what I was trying to avoid was publicity on it.

Q. You played like an ostrich, put your head in the sand, didn't do anything with the case; but then there did come a time when you did dump the case and you did pass it to files.

A. I kept thinking I was going to get

Watkins back up here. I really thought he would come back in here and Watkins would plead guilty and I'd go ahead and sentence Drew -- he's not going to jail anyway so what difference is going to make?

I was really -- there was no pressure applied to me to do it because it wasn't important to anybody, you know, just no problem with it.

Q. But what triggered the passage to the files? That's eventually what you did.

A. Then Jack Weldy was going out of office and he was Circuit Judge and he had been defeated by Dickie McKenzie, Bill Porter was fussing about the fact that his client was naked, was out there. That if Dickie McKinzie, whom Bill Porter had fought in the race, Dickie came onboard -- and being very politically oriented -- he could jerk it up first thing, first week he was in office and said, "I want to go ahead and sentence the man because he has already pled guilty."

He could have put him five years in jail and a fine. Bill was concerned about it, he was fussing about it, I told Bill I would get rid of the thing before Weldy left office.

I did. I took the document that Judge Weldy signed out to Carroll Ingram; and Carroll in turn -- it was my understanding -- took it to Wiley Fairchild on Christmas day.

Q. Would you have passed the case to the files if it had not been for the conversation between Judge Nixon and Wiley Fairchild?

A. Would not have. I told Bill, if it hadn't been for that, I'd of told Bill, "Look, Bill. Tell you what I'll do. I'll give you a chance. I'll let you withdraw your plea and I'll try him or you can just take your chances with --

Q. With Judge McKenzie.

A. Judge McKenzie. I'd offered to do that and under the state law I would be entitled to it.

Q. So, is it fair to say, was there any other reason to pass it to files other than to try to conform with Judge Nixon's relationship with Wiley Fairchild?

A. No. Nothing. I made a promise I was going to do it and I just did it and it was based on Judge Nixon's request -- even though you can say those things about don't do anything to embarrass you -- when somebody asked me that close to do something, I agree to do it. I just always done it.

Q. Okay.

A. I didn't want to back up on it.

Q. When was the next time you recall speaking to Judge Nixon about the Fairchild matter

A. The investigation started --

Q. The "investigation" meaning this Grand Jury?

A. I don't know if the Grand Jury had been called at that time. He called me on the phone and he told me that some people had come to see him and that he was just incensed that anyone would accuse him of being tied into the Drew Fairchild case, told me he never even heard of the Drew Fairchild case, that he --

Q. "He" meaning Judge Nixon?

A. Judge Nixon. He said he never even heard of the Drew Fairchild case, that even though he gotten had some minerals from Wiley Fairchild, had absolutely nothing to do with any handling of any case, very insistent that I told them that I've never talked to anyone in the Government and I've never talked to you about the handling of the case.

He said that several times and I said, "Yes, sir. If that's what you told them, that's the way it is. You never talked to me."

Q. Knowing Judge Nixon as you know him, how were you interpreting the conversation?

A. Naturally in my mind he was just telling me, "Here's what I told them." And he'll back me up when they come to you.

Q. Place the conversation that we are talking about now as best you can around events.

A. Okay That -- it would be between the time that you all saw him, and between the time they talked to me. So, I believe it was a week's period in there. So, this took place during that week.

Q. And when you say "we saw you" that would have been interviews?

A. Correct. You and Mr. Richter and I believe two F.B.I. agents.

Q. Interviewed you.

A. Yes, sir.

Q. That took place right down the hall.

A. That's right. I came back from fishing to get an education on prosecution. That's a private joke between us.

Q. We had a conversation about how prosecutors conducted their affairs, right?

A. Yes.

Q. Did Judge Nixon say anything else during that conversation that you recall?

A. He asked me if I knew whether or not the telephone call that was made from my farm was taped and if I knew it.

Q. So, he was doing two things: He was saying "I didn't have any conversations with you about the Drew Fairchild case." And then asked you to find out, or did you know whether or not the call was taped.

A. That's right. Find out. He asked if I knew, and of course, I had no way of knowing; and he asked me to find out. "You find out."

Q. Did it strike you that there was an inconsistency?

A. Well, I mean the whole -- it shut it down. What he was saying was, "Look. I don't know anything about anything. "The only possible evidence that, or the only way they could prove a telephone call took place, would be if it was taped and if it was not taped, then the telephone call never took place. It will be our word versus theirs."

I mean, that in essence was what was being said without it coming -- just shutting it down in those words.

Q. Is it your recollection this was a telephone conversation or a face-to-face meeting or do you know for sure?

A. Subsequently I was down there -- and I wracked my brain whether it was before my interview with you all or after -- but I was down there in the same conversation that I just relayed took place face-to-face.

Q. The same substance?

A. Same substance, yes.

Q. Now, pursuant --

A. It would have been after I talked to Carroll Ingram about --

Q. Did you in fact ask Carroll whether or not Wiley taped the call?

A. Yes. Yes.

Q. Subsequent to that conversation with Judge Nixon, how did you deal with the Government? I mean, did you follow his instructions?

A. I think I lied to the Grand Jury about it, and I lied to you all about it.

Q. You didn't volunteer any information about the call?

A. No. First go round, I had -- in the back of my mind, I said, "Well, you know, knowing what I know about Mr. Fairchild he'd probably like to kill me if he had the opportunity, but he probably would like to take care of Judge Nixon on the other hand

and he would like to walk that road."

And evidently that's what he did because he didn't want to tell you all anything that would be detrimental to Judge Nixon -- that would injure his relationship there -- but he did, on the other hand, if he could have shot and killed me, then he would enjoy doing that.

Q. So, is it fair to say that as the investigation progressed, you were concerned about that phone call?

A. That's the only thing I was ever concerned about. I had lied about it, and I wasn't -- to tell you the truth -- I wasn't -- the phone call was so durn inconsequential.

I'd come in and say, "Yeah. Hell, we were drinking and this is what happened. Here's the record. Ain't nothing happened to Drew. The case hasn't been disposed of. Hadn't been any money has been paid."

If I had just come in and just told it, the only person who would have been embarrassed would have been Judge Nixon; and that was guilt on my part.

Q. It is fair to say that nevertheless that you did take an official act, you did pass the case to files?

A. I did do an official act. I sure did.

Q. Based on?

A. Based on his request, and that request was motivated, or as I perceived it, it was a desire to be able to do more investments with Wiley Fairchild in oil and gas.

Q. Okay. Did there come a time when it came to your attention that the Government and the Grand Jury knew about the phone call?

A. Yes. Carroll told me. Carroll told me.

Q. And what was your reaction to that?

A. I told him, I said, "Well, Carroll, you just made me out for purjury."

Q. Did you do anything with Judge Nixon pursuant to that?

A. Yes. I called Judge Nixon -- he was up here holding court -- came over and met him, went down and sat in his car, and I told him that I thought about my conversation with Carroll and I told him, I said, "Well, I think that that, you know, the best thing to do is just come on and come clean and just tell them, you know, like it is."

And he was insistent he didn't know what I was talking about because he didn't know anything about a phone call. You know, you kind of feel a breeze there and he was very insistent that he didn't know anything about a phone call.

Q. Did he discuss with you your conversation with Carroll?

A. I told him about talking to Carroll, and then he told me, and he said, "Why in the world did you ever tell Carroll?"

I said, "Tell him?" I said, "Hell, you're the one that asked me to go find out if the thing was taped." I said, "Hell, it wasn't for my benefit to find out if it was taped." I didn't care. I said, "Hell, you're the one that asked me to find out."

Q. How did the conversation end?

A. I got out of the car and he went on back upstairs is how it ended.

So that was, I want to say a Friday night, and then on on Monday or Tuesday, Jim Dukes -- who is representing me the -- I asked him, "Does it look like things are headed the wrong way?" I got Jim involved and Jim talked to his lawyer --

Q. "His" meaning Judge Nixon's?

A. His lawyer. And he said that Judge Nixon said that he didn't know why I called Wiley

Fairchild. I just developed telephonitis.

Q. And then is it fair to say -- this is one lawyer to another lawyer?

A. That's right.

Q. This is not you and Judge Nixon.

A. No. It was not Judge Nixon, fourth hand, I guess, but it was obvious to me that that was Judge Nixon's position. He didn't know why I called Wiley Fairchild.

Q. Then you came into the Grand Jury after that and that's when --

A. I told them that, yeah, it was insignificant and I couldn't remember it and that Judge Nixon said that I had telephonitis.

Q. That's when you really got in trouble, that's the testimony that caused Count 1 of the indictment.

A. After I testified I said, "Well, if they don't cut my throat before I leave the Grand Jury, then I'll be ahead of the game."

Q. Now, following your indictment, have you had an opportunity to talk with Judge Nixon?

A. One more time.

Q. When was that and what was said?

A. Sam Peterson, who's the Chief Marshal, was having a retirement party down in Gulfport at the old Broadwater Golf Course and I went down there to Sam's retirement party and I saw Judge Nixon -- first time I had seen him -- and saw his wife and hugged -- and this was after I had been indicted -- and I felt like I had the leprosy down there, and -- you don't know.

So, I saw him and I went over to talk to Judge Nixon and I told him -- I had a couple of drinks and had been over to another place, Pee Wee Reaves over in Pascagoula -- and I said, "Judge, you and I need to talk. I need to get together with you and talk about this doggone telephone call. I think I have kind of -- to be frank -- I felt like I had ridden that horse about as far as I needed to ride it."

And he looked up and he said, "Well." He said, "I don't know why you called Wiley. You just picked up the phone and called him and started assuring him that the agreement you had with Bill Porter was going to be honored and that even though you had heard a rumor that Wiley thought I was backing up on the agreement, you just picked up the phone and called."

I said, "What in the hell are you talking about?" He said, "Well, I don't know why you made that phone call." And I said, "Well, okay." I mean that was it.

Q. That was it.

A. That was it.

Q. And is that basically your contact with Judge Nixon about the call?

A. Yes.

Q. As you sit here now are you tetifying as completely and as accurately about the events surrounding the call?

A. Yes, sir. Some of the events are things that I can't give you times and dates. I can give you the general substance because at the time they seemed to be immaterial and unimportant to me; and later on they get very important and you try to remember as best you can, but that is the general nature of the whole transaction.

Q. Do you know whether or not Judge Russell has oil investments?

A. Yes, sir. He and his friend named D.A. Biglane over in Natchez.

Q. Have you ever heard Judge Nixon talk about those investments, that he would like to --

A. Yes, sir. He always wanted to get in

with someone like Biglane. I don't believe that -- it's my understanding that he never had been able to make any investments with Biglane. He did make investments with McMullen on a venture out in West Texas that turned sour, but I think he got his money back.

Q. Geo Southern?

A. Whatever. I think they got a lawsuit going. He got his money back.

Q. How did he get his money back?

A. I guess he gave him a check.

Q. Who gave him the money back?

A. The bank or whoever the investment group was. I just read it in the paper.

A. You don't know yourself?

A. No, this is the newspaper account.

Q. All right. Do you know whether or not Judge Nixon saw an opportunity in Wiley Fairchild to emulate what Judge Russell had in Biglane?

A. I'd say that he thought he saw in Wiley Fairchild a similar relationship as he visualized that Judge Russell had, but Judge Russell has always been in oil and gas. He's from Hancock County and his father and them, they owned --

Q. There's no impropriety --

A. No, no. Zero impropriety. Judge Russell, before he went on the bench, that was what he was doing.

Q. Did you hear Judge Nixon say anything like that, about Wiley Fairchild, analogizing with Judge Russell's situation?

A. Yes. What Judge Nixon said was that he really felt extremely happy or looked like he had a great contact, that Carroll had lined him up with a great, super contact because of Wiley -- and I assume this was after the production was coming in on what he already got. I was very familiar with the fact that Judge Nixon was wanting to do whatever he could to ingratiate himself to Wiley.

Q. And how were you familiar with that? Why were you familiar with that?

A. By the general nature of everything. He wouldn't have come out and said, "Look, I want to do him a favor so he will do more for me."

Q. You put the pieces together?

A. Sure. Sure.

MR. WEINGARTEN:

At this point I want to ask you to step out and we will decide whether or not there are other questions.

A. All right.

(Whereupon a discussion was had between the U.S. Attorneys and the Grand Jury and the proceedings continued as follows:)

MR. WEINGARTEN:

Just a couple more, Mr. Holmes.

Q. I didn't ask you this. Did you receive anything of value from anybody for passing the case to files?

A. No, no.

Q. Did you ever receive anything of value from Wiley Fairchild, period?

A. No, sir. Never.

Q. Or Drew Fairchild?

A. No, sir.

Q. There was a question about the timing of that party -- Sam Peterson's party. It was after you were indicted and how long ago?

A. It would have to be up in -- I'd say in May. When was I indicted?

Q. March.

A. Okay. It could have been as early as April. I can find out the date.

Q. I guess the point is: It would have been soon after your indictment but before your trial was scheduled.

A. Very soon after the indictment.

Q. Finally, you made reference to your review of transcripts.

Just to clarify that, your review of transcripts were those that were turned over to you pursuant to discovery in connection with your case.

Are you testifying today because of what you read in the transcripts or because this is your honest to goodness recollection?

A. This is my honest to goodness recollection.

The only reference that I can say jogged my memory on the thing was when, I don't even mean to talk ugly, but when Drew Fairchild said that Bill Porter came in with him and I looked at Bill and said, "Why are you bringing this attorney with you? He ain't worth a shit."

I knew then that he had to have been in the office because that's exactly what I said, but I would say that if it were F. Lee Bailey or any attorney around there. That's my very standard statement when somebody would come with a lawyer and I'd always say, "Good God Almighty. You've gone to the maggots. What are you doing with this sorry

--" But I say that every time, and when I saw it I said, "There ain't no question. They were in there."

Q. Is it fair to say that when you reviewed Drew's Grand Jury testimony, it triggered your recollection? Has your review of other transcripts triggered other recollections or are you now testifying to what you know now?

A. I'm testifying to exactly what I know happened.

MR. WEINGARTEN:

At this point we thank you. I know you have been here four times. I'm not sure whether or not there will be a fifth, but at least for today we are satisfied. Thank you.

THE WITNESS:

Thank you all

(Whereupon the proceeding concluded at 10:32 a.m.)

CERTIFICATE OF REPORTER

I, William M. Hoppock, Official Court Reporter for the United States Grand Jury for the Southern District of Mississippi, impaneled as a Special Grand Jury on July 18, 1994, and the order appointing the said William M. Hoppock, dated August 31, 1984 and filed with the clerk of the United States District Court for the Southern District of Mississippi, hereby certify that the foregoing pages, and incuding this page, contain a true and correct transcript of the proceedings had in the Special Grand Jury as taken by me in stenotype and by tape recorder on the date hereinbefore stated and later reduced to typewritten form to the best of my skill and ability.

Witness my signature and seal, this the 9th day of July, 1985.

WILLIAM M. HOPPOCK
My commission expires 11/4/87

EXHIBIT
Respondent's
Exhibit 56

HOLMES: It was the scene of the crime. Horrible crime. Goddamn two drunks call up somebody and say that...that all they gonna do is, uh, see to it that the agreement that had been worked out a year earlier takes place and goddamn the next think you know every son-of-a-bitch is bad.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 56

FD-302 (REV. 3-8-77)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 10/28/85

The following is a transcript of a telephone conversation between W. P. (PAT) McMULLAN and PAUL H. (BUD) HOLMES, Hattiesburg, Mississippi, on July 24, 1985:

DNS - SA Venturi

Investigation on 9/10/85 at Jackson, Mississippi File # JN 206I-100

by SA DOMINIC VENTURI, JR., and
SA CLETIS W. BLAKE:CWB:mc Date dictated 10/28/85

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

UNKNOWN FEMALE: Law office.

PAT McMULLAN: Hi, uh, this is Pat McMullan. Is Bud in?

UNKNOWN FEMALE: He left about fifteen minutes ago.

McMULLAN: He coming back?

UNKNOWN FEMALE: I don't think so, but I can call him and tell him and maybe I can get him to return your call from where he is.

McMULLAN: Uh, yea, would you ask him to do this? Tell him I'd really like to talk to him this afternoon...

UNKNOWN FEMALE: Uh huh...

McMULLAN: and would he call me at, uh, Jackson three five five seven seven seven seven?

UNKNOWN FEMALE: Okay, I sure will...

McMULLAN: And not at my office number. Tell him I'm at another number.

UNKNOWN FEMALE: Alright. Three five five...

McMULLAN: Yea, my attorney's office...

UNKNOWN FEMALE seven seven seven seven. Okay.

McMULLAN: Three five five seven seven seven seven.

UNKNOWN FEMALE: Okay, thank you...

McMULLAN: Thank you.

UNKNOWN FEMALE: and I'll try to get a hold of him.

McMULLAN: Bye, thank you.

UNKNOWN FEMALE: Bye bye.

McMULLAN: Bye.

(Pause)

McMULLAN: Hello.

PAUL H. "BUD" HOLMES: Pat...

McMULLAN: Bud, how you doing?

HOLMES: Alright, my man.

McMULLAN: What's going on?

HOLMES: Nothing...nothing, just got message you were looking for me.

McMULLAN: Uh, where are you?

HOLMES: What?

McMULLAN: Where are you now?

HOLMES: Where...I'm out at the farm.

McMULLAN: Oh, okay. Well what kind of line have you got there?

HOLMES: Far as I know it's okay. I ain't worried nothing.

McMULLAN: Well, I had come over here to Tom's office... we were doing some work on...on my case and I had...I had been...I wanted to talk to you... I've...I know damn good and well that those bastards have got me hooked in over there... at my office...

HOLMES: Uh huh.

McMULLAN: But what I...what I wanted to talk about what...what concern me really was that...uh, you know yesterday when you said that, uh, that they were putting all these subpoenas out...

HOLMES: Right.

McMULLAN: and going back and looking into, uh, records of...if any money came out...out of Studebakers or wherever from you or to, uh,

McMULLAN: me or Paul or Stocks or Gene. See what... what we told Fa...Fannin and what scared the hell out of me was that when Tom went down on that first plea bargain with Wanda Pruitt...

HOLMES: Uh huh...

McMULLAN: with, uh, uh, with, uh, Tucker...the first thing he hit him was that Wanda Pruitt had been down there and that she had given, uh, them a bunch of information about me and some political, uh, invoices that I was involved in, plus, uh, actually they showed, uh, Tom a document that...that she had given 'em or told 'em about that, uh, there was an invoice or something that she had signed and so I got to thinking well if she was telling those bastards everything there was to try to gut me then, you know, she would tell 'em about anything, uh, that went on in the office and whether or not she told 'em anything about you know about damn document that was in there and...

HOLMES: I have no knowledge of any documents...

McMULLAN: Huh?

HOLMES: I have no knowledge of any documents that accepts anything wrong...

McMULLAN: Well...

HOLMES: that I know of between Gene...

McMULLAN: Well that was...

HOLMES: Mississippi Bank or anything else.

McMULLAN: That was what concerned me was was there any way that...that...that she could hurt anybody, uh, with any information that she could give 'em because...

HOLMES: I don't know of any information, Pat...

McMULLAN: Huh?

HOLMES: that's around. I mean...

McMULLAN: I can't hear too good.

HOLMES: I take this old position honest man loves an audit...

McMULLAN: You what?

HOLMES: I take position honest man, you know, loves an audit.

McMULLAN: Right.

HOLMES: And there's nothing she or any other human being can say that it would show criminality anybody's part that I have any personal knowledge of...

McMULLAN: I understand.

HOLMES: You know, I just don't know of any.

McMULLAN: Well, I just...I just, you know, I just...I didn't know whether or not, uh, or she'd been talking or...or somebody been saying something that might, uh, indicate that...that, uh, that...that...that they give 'em something to look at that I don't know nothing about but I do...I know that...that's...uh...I know she'd tell 'em anything and then of course they... they...they're reopening that dang deal they looking at everything there and...

HOLMES: Well, that's...that's just...what I'm saying and...and...and let me say this...I welcome them to look at anything...

McMULLAN: At anything?

HOLMES: At anything. There's not one thing that I know of that's illegal, crooked...

McMULLAN: Or anything else.

HOLMES: Or anything else whatsoever.

McMULLAN: Well, that's great. I just wanted...

HOLMES: I...I know of no knowledge whatsoever...

McMULLAN: Uh...

HOLMES: of...of any, uh, wrongdoing. I know I've never, uh, been approached nor have I approached anybody. I know of absolutely nothing that, you know, they could be getting. I don't know what some wild crazy, uh, pushed. (Unintelligible) I know that goddamn Fairchild thing I went through well, shit, they took crap that was so gaddamn far off the wall...to use against me...I mean stuff that you might as well be talking about the moon. But yet they tried to make something out it. You follow me?

McMULLAN: I understand what you're saying.

HOLMES: I had no knowledge now...I...I can't speculate what somebody might try to say...

McMULLAN: Well, I got...the thing is...

HOLMES: (Unintelligible)

McMULLAN: it got to bothering me when they...when they came back on the...you saying that they were coming back into the damn thing because as far as I...what I figured that that was a dead duck...there wouldn't nothing that they were gonna...to be able to find...

HOLMES: Well there ain't nothing there...

McMULLAN: and...

HOLMES: I mean I want 'em to look.

McMULLAN: and well then...

HOLMES: Hell, I (unintelligible)

McMULLAN: then...then...then I just, you know, I don't

McMULLAN: know what the damn crazy bitch had told 'em and this shit that she told 'em about me, you know, uh, it was...it was...it...she thought she had something that would hurt.

HOLMES: Yea. I don't...

McMULLAN: But, my point is she was looking for some way to hurt me...

HOLMES: Now who...

McMULLAN: cause she hates me...

HOLMES: now who is she now?

McMULLAN: She's a goddamn alcoholic, uh, dopehead.

HOLMES: Alright. Now, who is she? I mean what, do I know her?

McMULLAN: Well, you know, my secretary, Wanda, that blonde?

HOLMES: Okay, I 'member a blonde girl...

McMULLAN: Yea...

HOLMES: back when we were doing all the Gentle Ben's crap that...that I'd like to see if she would wanna meet me at Studebakers...

McMULLAN: Yea, I know. Wild as hell and...

HOLMES: Yea, and that's the only one I can remember. She'd always...

McMULLAN: But see that's the one I'm talking about...

HOLMES: Okay.

McMULLAN: that...that...that...

HOLMES: I used to run into her at Studebakers from time to time...(unintelligible)

McMULLAN: Yea, well that's the one I'm talking about

McMULLAN: that...that, uh, in fact we told, uh, when... when Tom and I was in there talking to Pat Fannin, uh, we told him that one of the things that they had is...is this ex-crazy... this crazy ex-secretary who later Tom hired over my...my head...(unintelligible) was that Judge Moore that got...and they later had to fire her because she was fucking everything client that came in there and on drugs and so forth, but she was...had furnished them information about transactions that I had something to do at the bank that she thought would be injurious to me and one of 'em they threw up, uh, Tucker threw up to Tom and said, uh huh, she told us and this is just what happened. Well, it ain't gonna be injurious to me, but she sure as hell thought it was gonna be...

HOLMES: Right.

McMULLAN: and so that was the only reason for...for, uh, my concern because no telling what the damn crazy girl would say.

HOLMES: Yea, I (unintelligible)

McMULLAN: If she thought she was hurting me.

HOLMES: Yea, as far as I...you know, I don't know what, you know, what she or anybody else, you know, might think they know.
But if there's anything of any, uh, criminal nature that's ever gone on involving any relationship between me, Mississippi Bank, First Mississippi National Bank, Paul McMullan, Pat McMullan, uh...

McMULLAN: You don't know nothing about...

HOLMES: (Unintelligible) Deer Island, Limited, or I don't know a goddamn thing about it.

McMULLAN: Well, that pretty well covers your goddamn spectrum, doesn't it?

HOLMES: You know, well what I'm saying I don't... is...and, uh, you know, I go up there to Washington and it gets me...well you're the big (unintelligible). You're the...so shit, come to find out the head of the FBI was Charlie Sullivan's boy's best man in his wedding I said aw, if this ain't some shit. You know and I look at this crap where they say I killed Charlie Sullivan...

McMULLAN: You what?

HOLMES: Oh, fuck, they...they...they've accused me of every goddamn thing in the world.

McMULLAN: (Laughter)

HOLMES: Uh, you know, and I...

McMULLAN: Goddamn.

HOLMES: what I'm saying...what...crazy damn thing to it...now this was, uh...

McMULLAN: (Laughter)

HOLMES: This was, uh, Bill Bergin's testimony.

McMULLAN: Uh huh...uh huh.

HOLMES: That, uh, Charlie Sullivan...

McMULLAN: Well, I...I...I...

HOLMES: was in a airplane it was in A one shape...

McMULLAN: Well, what the hell would you have to do with Charlie Sullivan?

HOLMES: Well, I...I'm just saying this is the kind of crap though they speculated on.

McMULLAN: (Laughter)

HOLMES: Hell, I went and checked it out and Charlie Sullivan was drunk...flying the ole plane trying to pump the damn, uh, uh, landing

HOLMES: gear down...he'd been by up at, uh, Memphis, couldn't get the landing gear down, radio told him he was headed to Clarksdale...and then he crashed everything trying to pump his damn ole...you know wheel, but yet they let the shit go before the grand jury back there...

McMULLAN: (Laughter)

HOLMES: And then Wiley testified that he knew for a fact that three hundred and sixty-five thousand dollars worth of, uh, life insurance on Bill Porter...that I was on the note so I killed Bill Porter so the goddamn life... that was a bunch a shit there wouldn't a quarter's worth of insurance on him.

McMULLAN: (Laughter)

HOLMES: And it's right there in the goddamn records.

McMULLAN: (Laughter)

HOLMES: (Unintelligible)

McMULLAN: Well they...they ain't...hey, they're not looking for facts, are they?

HOLMES: Un huh. So what I'm saying...I done gone...

McMULLAN: You done had all this dog shit you're interested in.

HOLMES: Yea, and so what I'm saying if they got some goddamn wild bitch that, uh, is trying to speculate to say who shot John, you know...

McMULLAN: Just get in line, huh?

HOLMES: No shit, just get in line. Goddamn, come on up and then, uh...

McMULLAN: (Laughter)

HOLMES: you know and tell it.

McMULLAN: (Laughter)

HOLMES: You know...

McMULLAN: (Laughter) Alright, well...

HOLMES: Hey, hey that's the way I...and...and...and that...and that's the way I look at it.

McMULLAN: I understand what you're saying...

HOLMES: Cause they...they done thrown old shit like that if that...if that's the type evidence they think that, uh, that the da...government's gonna trap 'em with...then fuck it just bring it on.

McMULLAN: (Laughter) Alright, sky hawk.

HOLMES: Cause I guaran-goddamn-tee ya I don't...I do not know one criminal act involved in Petit Bois Island, uh, Deer Island, Smear Island...

McMULLAN: (Laughter) Clear Island.

HOLMES: or anything else. I don't know...I've never talked to anybody involved in the damn thing, lied to anybody...

McMULLAN: (Laughter)

HOLMES: you know...

McMULLAN: (Laughter) You didn't even know where the son of a bitch was, did ya?

HOLMES: Fuck, naw. I had no idea. Got there... the whole damn thing...

McMULLAN: (Laughter)

HOLMES: Yea, I talked to Stocks and everybody about the mineral aspects of it...

McMULLAN: (Laughter)

HOLMES: and this was after the thing was all over. Roger Landrum was out of it.

McMULLAN: (Laughter)

HOLMES: No shit. Now, I don't know what the hell they talking about.

McMULLAN: Well, anyway, that's good. I just wanted... I wanted to run that by ya and I talked to Fannin last night.

HOLMES: Did ya? Good.

McMULLAN: Yea, and I'm supposed to get back with him this afternoon. He was in court all morning and I'm gonna get him this afternoon and then I told him that Tom and I would meet with him at his convenience in Hattiesburg or in New Orleans and he said that he had tried to get me so we just been missing each other.

HOLMES: Right. Uh huh, he told me he wanted to get with you...

McMULLAN: Well, you at your la...your lodge?

HOLMES: Well, I came out here to get this...scene of the crime that's where the terrible telephone call took place.

McMULLAN: Where?

HOLMES: Out at my farm.

McMULLAN: Oh, shit, well...

HOLMES: (Laughter)

McMULLAN: goddamn...

HOLMES: It was...scene of the crime. Horrible crime. Goddamn two drunks call up somebody and say that...that all they gonna do is, uh, see to it that the grievance had been worked out a year earlier takes place and goddamn the next

HOLMES: thing you know every son of a bitch is bad.

McMULLAN: (Laughter)

HOLMES: Boy, that's terrible.

McMULLAN: The only crime that oughta be committed out there would be a beautiful lady to lose her virtue occasionally.

HOLMES: Well, now I tell you...I have...now, I'm guilty of trying.

McMULLAN: (Laughter). You are...

HOLMES: (Unintelligible)

McMULLAN: you won't...hey, you won't even admit to that, will ya?

HOLMES: Shit, I won't even admit I...not even singing too loud in church now.

McMULLAN: (Laughter) Alright, Bud. You have a...

HOLMES: Alright.

McMULLAN: good afternoon.

HOLMES: Alright.

McMULLAN: Thank you.

HOLMES: Okay.

This tape was made in the library of the offices of, uh, Royals, Hartung, and Davis, somewhere close to four o'clock on the afternoon of July the 24th, 1985, and between Bud Holmes and uh, Pat McMullan.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 57

EXHIBIT
Respondent's
Exhibit 57

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIP
Hattiesburg Division

UNITED STATES OF AMERICA * CR. NO: H85-00004
VERSUS * Violations 18 U.S.C
§ 1503
18 U.S.C
PAUL H. "BUD" HOLMES * § 1623

SENTENCING MEMORANDUM

The purpose of this document is to present the defendant's version of the facts and occurrences which led up to the indict: and subsequent guilty plea of the defendant Paul H. Holmes. It hoped that the court will take these facts into consideration i determining an appropriate sentence.

A. Statement of the Facts:

The presentence investigation correctly states the events the time of indictment until the guilty plea. Therefore, we w: direct our attention to events prior to indictment.

The events leading up to the arrest and prosecution of Drew Fairchild occurred during the time that Mr. Holmes was District Attorney for Forrest County. The case was initially handled by local officials but was then picked up by the Unite States Attorney for the Southern District of Mississippi when Fairchild's attorney contacted federal authorities and offerec client's cooperation in matters involving drug smuggling.

Some time after federal authorities had assumed responsibilities for the Drew Fairchild case inquiries were mad Mr. Holmes as to why the case had not been prosecuted. The implication was that the case had received preferential treatme because of the wealth and power of the defendant's father. Mr. Holmes then called the U.S. Attorney and inquired on the status the case and expressed an interest in bringing an indictment in state court. In Mr. Holmes mind the indictment would serve two purposes; 1) ensure the prosecution of the case, and, 2) quell rumors that may have been getting started.

With the approval of the U.S. Attorney, Drew Fairchild was indicted by a grand jury in Forrest County. Shortly thereafter attorney for Drew Fairchild negotiated a plea bargain with the district attorney, which was the exact same plea agreement whic had been agreed to by the federal government when the case was being prosecuted by them.

While the case was pending, Mr. Holmes had occasion to sp some time and have a few drinks with Judge Walter Nixon. The indicated to Mr. Holmes that he was involved in some oil deali with Drew Fairchild's father. This was the first knowledge th Mr. Holmes had of any such business deals. Judge Nixon went o say that Wiley Fairchild had asked him to talk to Mr. Holmes a his son's case, requesting specifically that the judge "put in good word" for Drew with Mr. Holmes.

Since a plea bargain had already been entered into which called for a stiff fine and no jail time, Mr. Holmes saw an eas way to accommodate the judge and not compromise himself or the office of district attorney. He indicated to the judge that he sure the case could be worked out without the necessity of the defendant doing any jail time. After a few more drinks Judge Ni called Wiley Fairchild at his home and informed him that he had talked to Mr. Holmes and that everything in his son's case woul alright. Mr. Holmes then got on the telephone and repeated the same thing. Mr. Holmes then did nothing at all to help Drew Fairchild nor did he ever intend to compromise his office by tampering with the Drew Fairchild case. Mr. Holmes did not ask or receive anything and the entire incident was all really very insignificant to him.

After the grand jury investigation into this matter began M Holmes testified voluntarily without immunity on three separate occasions. At some point in time it became evident that the prosecutors were interested in and very likely would ask about t Nixon - Fairchild telephone call and surrounding circumstances. Mr. Holmes brought that subject up to Judge Nixon and the judge' response was that he knew nothing of any such telephone call. M Holmes took that to mean that the judge did not want him to reve the telephone call to the prosecutors and/or grand jury.

From Mr. Holmes standpoint there was no reason whatsoever t deny the phone call. He had done nothing illegal and the Drew

Fairchild case had been handled in exactly the same fashion as i would have been had the phone call never occurred. The only per who stood to lose by the disclosure of the call was Judge Nixon. Mr. Holmes had been friends with the judge for almost 20 years, since the two had practiced in the same courts prior to the judg ascendancy to the bench. The two had hunted and fished together traveled and socialized together and their families had socializ together for years. These factors weighed heavily on Mr. Holmes mind. Additionally, he was faced with the prospect of having to practice in the Southern District of Mississippi after incurring the chief judge's wrath. Faced with the dilemma that he found himself in, Mr. Holmes rationalized the fact that he had done nothing wrong and there was no criminal activity to be prosecute so the government would not be harmed if he did not tell them everything about the phone call. He then went in the grand jury and stated that he had only a hazy recollection of the call. Again, the only motivation was misguided loyalty to the judge an he received no personal benefit whatsoever from his actions.

After he was indicted Mr. Holmes agreed to plead guilty to involvement in the above and cooperate with the government as to his participation. As a result of his cooperation the governmen obtained an indictment against Judge Nixon which is pending at t time.

B. Argument

It is submitted that the defendant, Paul Holmes, is deservi of leniency from this court for a number of reasons which we wil list as follows:

1. The defendant's prior history.

Mr. Holmes has, of course, never been arrested or convicted of any other criminal offense. He has been a la abiding citizen who worked hard to make a contribution to community. He was long active in his church and has a rec of making substantial contributions, including one single contribution of $50,000.00 a few years ago.

2. The need for parity between this sentence and Mr. Fairchild's sentence.

Wiley Fairchild plead guilty in this court to two felonies; perjury and paying a gratuity to Judge Nixon. E admitted to lying before the grand jury and to giving oil royalties to the judge in hopes of influencing the judge i his official conduct. For this he received a sentence of days in the halfway house. It is submitted that the crime which Mr. Holmes commited, as outlined above, does not cal for a sentence any more severe than that of Mr. Fairchild.

3. The injuries already suffered by Mr. Holmes.

The results of this investigation and conviction of Mr. Holmes have been devastating to Mr. Holmes in his busines personal and professional lives. The news media in the relatively small community of Hattiesburg, Mississippi ha found a bonanza in this case. The story has been carried extensively and repeatedly in the newspaper as well as th television and radio. This matter has been a constant an inescapable source of embarrassment and humiliation for b Mr. Holmes and his family. This in and of itself is prob the hardest punishment that Mr. Holmes will have to face.

Professionally, it is likely that Mr. Holmes will suffe disbarment and be inable to continue to practice law. Afte longtime career as a practicing attorney and public officia this comes as a difficult blow. Further, due to adverse publicity, pre-occupation with his defense and uncertainty his future, it has been impossible for Mr. Holmes to mainta a meaningful law practice over the past year or so.

4. The defendant's cooperation with the government.

Since his guilty plea Mr. Holmes has cooperated with th government. As a direct result of that cooperation the government obtained an indictment against Judge Nixon. Thi much is not in dispute.

The government now states that there is a question as t whether Mr. Holmes truthfully cooperated in connection wit the Petit Bois Island investigation. They point to a polygraph examination which Mr. Holmes allegedly failed an state that they have "substantial evidence" against him in this case. In response, Mr. Holmes points to the polygrap examinations which he passed prior to taking the governmen test (see attached reports), and responds to the governmen that they should indict him on the case if they have so mu evidence.

The only thing we know for certain about Mr. Holmes' cooperation is that the government would not be prosecutin Judge Nixon if he had not agreed to help them. It makes little sense that Mr. Holmes would testify against Judge N in one case and try to protect him at great personal risk

another.

C. Summary

The defendant, Paul Holmes, appears before this court in n need of rehabilitation. It is highly unlikely that he will eve find himself before any other court in a similar situation agai regardless of what the sentence may be. Therefore, the key motivating factor in imposing sentence is deterrent effect.

It is easily seen that anyone who looks at the facts of th case will see that Mr. Holmes has suffered immensely for his cr Any sentence of incarceration, no matter how slight, will furth drive home that point. Mr. Holmes should not be given a senten any more severe than Mr. Fairchild as that would be unnecessary achieve a deterrent effect and would be unjust by comparison.

Respectfully Submitted,

Patrick

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Hattiesburg, Ms. 39401
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For Defendant
Paul H. "Bud" Holmes

U.S. Department of Justice

EXHIBIT
Respondent's
Exhibit 58

RHW:JNL:ab
186-41-162

Washington, D.C. 20530

January 7, 1986

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 58

Mr. Michael S. Fawer
Fawer, Brian, Hardy & Zaczkis
700 Camp Street
New Orleans, Louisiana 70130

Re: United States v. Nixon
CR. NO. H85-00012(L)

Dear Mr. Fawer:

At our meeting on January 3, 1986, you stated that you understood that the federal government had made some sort of "deal" with Drew Fairchild prior to his federal indictment which included a resolution of his sentence in the state system. We responded that there was no federal plea bargain with Drew Fairchild, but that we would review our files to insure that there were no other favors or deals given to him. After reviewing our files we have the following information to report to you.

In 1984, Drew Fairchild began cooperating with the federal government in its investigation of the transactions between Wiley Fairchild and Judge Nixon, and in its investigation concerning the 1980 drug case. Drew's state sentence was continued several times during 1984, at his request, in part because of the federal investigation.

Drew Fairchild was scheduled to be sentenced in state court on March 8, 1985, and in contemplation of that, on March 5, I sent a letter to District Attorney Glenn White detailing Fairchild's cooperation. You have a copy of this letter.

On March 8, Fairchild's state plea agreement was vacated, Fairchild withdrew his guilty plea, and a trial date of May 13 was set for his state charges.

Shortly thereafter, Fairchild's attorney contacted us and requested that we proceed federally against Fairchild. No agreements, deals, or promises were made with this attorney.

In mid-March, we decided to seek an indictment of Drew Fairchild. While the request of Fairchild's attorney was noted, it was but one of several factors weighing into the decision to recommend an indictment. The primary factor was our belief that by March, 1985, the drug case was a federal matter that could best and most fairly be handled in Federal Court. Fairchild was indicted on March 29, and he pleaded guilty on the same day. There was no plea agreement; he pleaded guilty to the entire indictment.

Fairchild's federal sentence was scheduled for July 11, 1985. Prior thereto, Fairchild's attorneys, the District Attorney, and Judge McKenzie apparently negotiated a deal regarding Fairchild's state sentence. While Fairchild's attorneys advised us of this development, we played no part at all in this deal.

After Fairchild reported to Federal prison he filed a Rule 35 motion, which we opposed and which was denied.

I believe this will answer your questions about our negotiations with Drew Fairchild.

Sincerely,

Reid H Weingarten

Reid H. Weingarten
Trial Attorney
Public Integrity Section
Criminal Division

cc: Honorable James H. Meredith
Chief United States District Judge
Eastern District of Missouri

EXHIBIT
Respondent's
Exhibit 59

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 59

RELATIONSHIP WITH DREW

RELATION WITH CARROLL

RELATIONSHIP WITH BUD

DREW'S CASE:

THE BUST

READ IN PAPER, NOT HAPPY THAT DOPE WAS BEING BOUGHT INTO HATTIESBURG. LATER FOUND OUT THAT DREW HAD BEEN INVOLVED AND WAS VERY DISGUSTED WITH HIM. PREVIOUSLY HAD NOT GOTTEN ALONG WITH DREW BUT HE IS MY SON AND I DID NOT WANT HIM TO GO TO PRISON. DREW TOLD ME THAT HE AND BILL PORTER WAS GOING TO SEE GEORGE PHILLIPS. DREW LATER SHOWED ME THE PAPERS OF HIS PLEA BARGIN. $2,500.00 GIVEN TO BILL PORTER.

I GOT A TELEPHONE CALL FROM BUD ABOUT 5:00 ONE NIGHT, THAT DREW HAD BEEN INDICTED AND TO GET DREW TO GET BILL PORTER, CARROLL INGRAM OR WHO AND HE WOULD RELEASE DREW ON HIS OWN RECOGNIZANCE. $7,500.00 GIVEN TO BILL PORTER AND HE SAID THAT WOULD TAKE CARE OF EVERYTHING.

BOB ROYALS CAME AND ASKED ME TO GET OFF MY MONEY. MADE ME REAL MAD. I WAS ANGERED OVER AN ACCUMULATION OF DELAYS AND PEOPLE TRYING TO BLACKMAIL ME. I TRIED TO CALL CARROLL TO GET THE JUDGE UP HERE AND WAS UNABLE TO GET CARROLL. I CALLED THE JUDGE DIRECT AND TOLD HIM I WANTED TO DISCUSS SOMETHING WITH HIM BUT NOT OVER THE PHONE.

WHY DID I CALL NIXON?
BECAUSE I THOUGHT HE OWED ME A FAVOR. WHEN THE JUDGE HAD COME BY TO THANK ME FOR PUTTING HIM IN THE OIL DEAL. THE JUDGE SAID "WILEY, IF I CAN EVER HELP YOU, I WILL. IF I CAN'T, I WILL TELL YOU." I CALLED HIM AND ASKED HIM TO COME BY AND HE DID.

HOW LONG WERE THE OIL PAPERS BACKDATED?
1 YEAR EXACTLY

WERE YOU PROSECUTED BY THE JUSTICE DEPARTMENT?
YES

WHY?
I MADE A MISTAKE. I TREATED NIXON AS I HAD OTHERS BEFORE. I DID NOT WANT TO DO WRONG. I DID NOT KNOW IT WAS A CRIMINAL OFFENSE TO HELP A JUDGE.

HAVE YOU MADE A DEAL TO TESTIFY IN THIS CASE?
NO

WHEN DID NIXON COME UP AFTER THE PHONE CALL TO HIM FROM YOU?
HE CAME UP WITHIN A FEW DAYS.

DID YOU EVER HEAR FROM NIXON AFTER HIS VISIT?
YES. THAT NIGHT NIXON CALLED AND SAID "WILEY, YOU REMEMBER THAT MAN WE WERE TALKING ABOUT THIS AFTERNOON. WELL, I AM AT HIS HOUSE AND HE SAYS EVERYTHING WILL BE ALL RIGHT." THEN BUD GOT ON THE PHONE AND SAID "WILEY, WHEN THIS MAN ASK ME TO DO SOMETHING I DO IT." I THANKED HIM FOR CALLING AND SAID I WOULD SLEEP ALOT BETTER THAT NIGHT.

DID YOU TELL ANYBODY ABOUT THAT CALL?
YES. I TOLD CARROLL INGRAM.

WHAT HAPPENED NEXT?
DREW'S CASE WAS PASSED TO THE FILES. CARROLL BOUGHT ME THE PAPERS OUT AND SAID "MERRY CHRISTMAS". I WAS SO EXCITED THAT AT LAST IT WAS ALL OVER. I CALLED DREW'S WIFE AND SHE CAME OUT AND I GAVE HER A COPY.

HOW DID THE CASE GET BACK ON THE DOCKET?
WHEN JUDGE McKENZIE CAME IN AND TOOK JACK WELDY'S PLACE.

DID YOU EVER SEE JUDGE McKENZIE?
YES, I CAME IN ONE MORNING AND THEY TOLD ME THAT BUD HOLMES HAD CALLED. THEY TOLD HIM THAT I SHOULD BE IN SHORTLY. I TOLD THEM IF HE CALLED BACK THAT I WAS NOT HERE BUT THEY SAID HE WAS COMING OUT, SO I TOLD THEM TO GO AHEAD AND CALL ME WHEN HE GOT HERE AND IN A FEW MINUTES BUD AND JUDGE McKENZIE CAME, SO I GOT RODNEY TO COME IN THE OFFICE WITH US. BUD SAID "WILEY, NOBODY IS AFTER DREW. NOTHING IS GOING TO HAPPEN TO HIM. GET AHOLD OF DREW AND TELL HIM TO JUST LET IT SLIDE. DO NOT LET THE PRESS GET AHOLD OF THIS CAUSE THEY WILL JUST SCREW THINGS UP." BUD SAID JUST LET IT SLIDE. "JUDGE McKENZIE COULD GIVE DREW 20 YEARS BUT ME AND THE JUDGE GET ALONG REAL WELL. NOTHING IS GOING TO HAPPEN TO DREW."

WHAT DID JUDGE McKENZIE SAY?
HE DID NOT SAY ANYTHING, HE JUST SAT THERE AND NODDED, LIKE HE AGREED.

CROSS EXAMINATION:

WHY DID YOU CARE WHAT WOULD HAPPEN TO DREW?
BECAUSE I'M PROUD OF THE FAIRCHILD NAME, AND HE'S MY SON.

DID YOU TALK WITH MR. WEINGARTEN ABOUT TESTIFYING?
YES

WHAT DID HE TELL YOU TO SAY?
HE TOLD ME TO JUST TELL THE TRUTH, AND THAT'S WHAT I'M DOING.

WHY WERE YOU INDICTED?
BECAUSE MY LAWYER ADVISED ME NOT TO HELP THE FEDS INVESTIGATION AND KARL KEPPER TOLD ME THEY COULD NOT USE MY TESTIMONY AGAINST ME.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 60

EXHIBIT
Respondent's
Exhibit 60

1

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 1/22/86

ROBERT RAY ROYALS, Inmate, FEDERAL CORRECTIONAL INSTITUTION (FCI), Fort Worth, Texas, provided the following information:

ROYALS advised that he and DREW FAIRCHILD were business partners in AIRPORT SERVICES COMPANY and F/R CORPORATION. ROYALS explained that AIRPORT SERVICES COMPANY (ASC) was a fixed based operator's operation in which aircraft were serviced with oil, fuel, and mechanics. ROYALS advised F/R CORPORATION was an oil and gas leasing operation and further that both businesses were started in 1979.

ROYALS stated his partner, DREW FAIRCHILD was the son of WILEY FAIRCHILD who is a multi-millionaire. ROYALS stated DREW and his father get along just about like cats and dogs do.

ROYALS stated he was a close friend to BILL PORTER who was the criminal attorney for DREW FAIRCHILD. ROYALS stated he could not say how PORTER became FAIRCHILD'S attorney, however, PORTER had indicated to him on several occasions that BUD HOLMES, the District Attorney at Hattiesburg, Mississippi, would direct clients to him (PORTER) who in turn would split the legal fee with HOLMES. ROYALS stated he strongly suspects HOLMES sent PORTER to FAIRCHILD.

ROYALS stated he knew PORTER told DREW FAIRCHILD that the legal fee for his services would be $10,000 and that he had the power through BUD HOLMES to prevent indictment. ROYALS stated in fact that PORTER told him if he told HOLMES to indict FAIRCHILD he would and if he told not to indict FAIRCHILD he would not.

ROYALS stated DREW FAIRCHILD did not have $10,000 and could not pay PORTER'S legal fee and this became a sore point with PORTER. ROYALS stated in fact that after a while it became the topic of conversation every time he saw PORTER.

ROYALS stated he was asked by a Federal Grand Jury if he had ever told WILEY FAIRCHILD that the only way to help his son, DREW, was to get off his wallet. ROYALS stated he told the Grand Jury at that time no because he really did not believe he had told WILEY FAIRCHILD that information because he believed he had told DREW FAIRCHILD if the legal fee was not paid to BILL PORTER then PORTER was going to let HOLMES indict him (FAIRCHILD). ROYALS stated he is not denying that

Investigation on 1/9/86 at Fort Worth, Texas File # DL 58B-654
JN 58B-109-87

by SA GARY K. JACOBS/vab Date dictated 1/13/86

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

FD-302a (3-8-83)

Continuation of interview of ROBERT RAY ROYALS on 1/9/86, Page 2*

he made the comment to WILEY FAIRCHILD but just does not recall the circumstances. ROYALS stated he is aware WILEY FAIRCHILD is saying the statement was made to buy him shortly after he and BILL PORTER had visited a friend at the penitentiary at Maxwell Air Force Base.

ROYALS stated the F/R oil and gas leases were sold directly to WILEY FAIRCHILD for $10,000 sometime in 1981, however, he nor DREW ever received the money. The money was paid by WILEY FAIRCHILD via two checks in the amount of $7,500 and $2,500 directly to BILL PORTER. ROYALS stated he saw copies of-cancelled checks however WILEY FAIRCHILD would not let him make copies of them. ROYALS stated he had no idea why two checks were submitted to PORTER. ROYALS stated the $10,000 was paid after DREW FAIRCHILD was indicted and he believed this money was paid so that HOLMES would not pursue any further prosecution of DREW FAIRCHILD.

ROYALS stated after the money was paid, DREW FAIRCHILD told him he felt as though everything was taken care of and there would not be any further prosecution in the matter.

ROYALS stated he was prosecuted because he could not remember making the statement to WILEY FAIRCHILD concerning getting off his wallet. ROYALS stated he still cannot remember making that statement to FAIRCHILD however, will not deny that he did not say it.

ROYALS stated he is willing to take a polygraph test concerning everything he has stated.

ROYALS advised he is a white male, born August 28, 1939 at New Augusta, Mississippi and was sentenced July 10, 1985 to three years custody of the Attorney General for smuggling marijuana. ROYALS advised his wife and six children reside at 3009 Navaho Circle, Hattiesburg, Mississippi.

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
JAN 13 1986
CLARENCE A. PIERCE, CLERK
BY ____ DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

UNITED STATES OF AMERICA *
*
VERSUS *
*
PAUL H. "BUD" HOLMES *
*
****

CRIMINAL ACTION
NO. H-85-00004

EXHIBIT
Respondent's
Exhibit 61

Transcript of Sentencing held in the above numbered and entitled cause before the Honorable Patrick E. Carr, presiding Judge on the 11th day of December, 1985.

APPEARANCES:

COUNSEL FOR THE UNITED STATES OF AMERICA:

REID WEINGARTEN, Esq.
JAN LITTLE, Esq.
Public Integrity Section
U. S. Department of Justice
Washington, D.C. 20004-0168

COUNSEL FOR THE DEFENDANT, PAUL H. "BUD" HOLMES:

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614 Tchoupitoulas Street
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JAMES K. DUKES, Esq.
Post Office Box 2035
Hattiesburg, Mississippi 39401

ROBERT F. DRAKE, Esq.
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United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 61

MAURICE DANTIN, Esq.
Post Office Box 604
Columbia, Mississippi 39429

REPORTED BY: ARLENE MOVAHED, O.C.R.

PROCEEDINGS

THE CLERK: Criminal Action M-85-04, United States versus Paul "Bud" Holmes.

THE COURT: Make your appearances.

MR. FANNING: Your Honor, Patrick Fanning along with Jim Dukes, Maurice Dantin and Bob Drake on behalf of Mr. Holmes who is present in the courtroom.

MR. WEINGARTEN: For the United States Reid Weingarten and Jan Little, Your Honor.

THE COURT: Is there any reason, counsel, why sentence should not be imposed at this time?

MR. FANNING: No, Your Honor.

THE COURT: Does the defendant have any reason why sentence should not be imposed?

MR. HOLMES: No.

THE COURT: Or the Government?

MR. WEINGARTEN: No, Your Honor.

THE COURT: Counsel, do you have anything to say on behalf of your client in mitigation of sentence?

MR. FANNING: Your Honor, if I may briefly. I furnished the Court with a sentencing memo.

THE COURT: I read it.

MR. FANNING: Mr. Dukes will have some

brief remarks to say on my behalf. The only thing I want to add that I failed to put in the sentencing memo is with regard to the section where I refer to Mr. Fairchild's sixty day halfway house sentence. I should have put in and called to the Court's attention the fact that Drew Fairchild who pled guilty to actually participating in smuggling of a load of marijuana into the Southern District of Mississippi was sentenced to that offense and was given a six month sentence. I know this Court's history on sentencing on drug cases and I don't think that would have been the case if this Court had sentenced him, however, I think in the interest of justice that Mr. Holmes' sentence should be imposed with some regard given to both Mr. Fairchild's Senior -- or Wiley Fairchild's sentence along with Drew Fairchild. That's all, Your Honor.

I refer to Mr. Dukes.

MR. DUKES: Your Honor, as the attorney, one of them for Mr. Holmes, and a person that has probably known him longer than anybody in this courtroom and considering the purpose of sentencing on occasions such as this I just want to say to the Court that I have seen this man since this entire matter arose suffer in anguish over not only the position that he is in but the remorse that he felt, the publicity that has been heaped upon his head and that of his family. If anybody has been punished, Bud Holmes has been punished as he stands before this Court today. He has suffered.

So far as rehabilitation, I think this Court is aware that and would believe that a sentence involving incarceration would not really accomplish anything so far as rehabilitation is concerned because I think that has been accomplished. He has certainly been punished and will be punished for the remainder of his life for the stigma that will rest with him. And so I simply ask on his behalf that the Court in its wisdom in passing sentence that you consider those things and that the Court in its wisdom be compassionate.

THE COURT: Mr. Holmes, would you like to say anything?

MR. HOLMES: Your Honor, it's my understanding from the counsel that they felt it would be best if they did the talking.

THE COURT: That doesn't preclude you from talking on your own behalf.

MR. HOLMES: Your Honor, I would like at this time with their indulgence to say that I apologize to the Grand Jury for my actions and I would like very much to apologize to the Court for my actions.

My family has been highly embarrassed by it which I regret, always will regret it. Certainly I have been very embarrassed about it. I do want to make the public apology.

THE COURT: Government want to say anything?

MR. WEINGARTEN: Yes, Your Honor. Good morning, Your Honor. Your Honor, when it comes to Mr. Holmes one could talk endlessly. He is a fascinating figure, he is a controversial figure, he is a colorful figure, he is a talented figure. Of course, we're not here to analyze him, we're here to sentence him and for that reason I think we should confine our remarks to the sentencing structure that the Court used in the Fairchild sentencing that Mr. Dukes eluded to and that is what is the purpose of sentencing and how does Mr. Holmes fit in, meaning what consideration should be given to rehabilitation, to punishment and to deterrence.

Before I get to that I will like to just briefly set the scene as the crime was committed in this case. Of course Mr. Holmes' conduct as District Attorney was of interest during the Grand Jury investigation and in particular his handling of the Drew Fairchild drug case. Mr. Bannaffons in his pre-sentence report focused on this issue, was Mr. Holmes a corrupt DA and did he handle the Drew Fairchild case corruptly. I think it's important to note and it is something that has always been emphasized by Mr. Holmes and his attorney that no bribe was paid to Mr. Holmes. There's no evidence whatever that Mr. Holmes ever took a dime while he was DA. We do have evidence, however, that

Mr. Holmes took an official action as DA in the Fairchild case based not on the merits but based on his relationship with people. In other words, friendship as opposed to the merits sometimes dictated Mr. Holmes' official conduct. While that is not illegal it could be considered improper. That I think is the difficult answer to Mr. Bud Holmes' question that he raises in the pre-sentence report. That of course is not what he was charged with and I don't think he should be sentenced according to his behavior as DA when it came to taking official action.

The crime, of course, took place in the Grand Jury. Mr. Holmes had been in the Grand Jury a couple of times and he had been asked about the Drew Fairchild case. Subsequent to his second visit to the Grand Jury the Government learned about a phone call that was made from Mr. Holmes' farm by Mr. Holmes and Judge Nixon to Wiley Fairchild that dealt with Drew Fairchild's case.

Mr. Holmes learned that we had come upon the evidence and he knew when he went back into the Grand Jury a third time that he was going to be asked about the phone call. He did three things that he pled to. One, he tried to find out exactly what we knew so as to be able to tailor his Grand Jury testimony. Two, he tried to trivulize the telephone call when he came back into the Grand Jury saying it never crossed my mind the first couple of times I was in the Grand Jury. And, third, he didn't tell the truth when he refused to tell the substance of the call. He pled to the crime of contempt, 18 U.S.C. 401. Of course it's a unique crime, it's not a felony, it's not a misdemeanor, it's an obstruction offense. Basically what he pled to was preventing the Grand Jury from getting evidence that it was entitled to receive.

Now as far as rehabilitation is concerned I tend to think Mr. Dukes is exactly right. I don't think any sentence imposed could further the process of rehabilitation. Mr. Holmes made a very moving apology in the Grand Jury the last time he appeared. I'm not able to crawl into Mr. Holmes' mind but I think it was sincere, I think he is sorry for what he did. Frankly, if he is not sorry and not sincere there is nothing that the Court could do, I think, that could further the rehabilitation process along but I tend to think it was sincere and I tend to think he is sorry and was sorry for what he did.

As far as punishment is concerned I also agree with Mr. Dukes. I believe Mr. Holmes has suffered by all accounts. He has been humiliated, he is withdrawn, a very glamorous high flying lifestyle is crashing around him. But the question is should he be punished more. I think it is important to consider this fact. It would be hard to find a perjury or false statement case or a contempt case where the mens rea was clearer. Mr. Holmes did know as he entered into the Grand Jury that he was going to be posed with this issue about the telephone call and I have to believe that he made his mind up before he went into the Grand Jury that he simply was not going to tell the truth to the Grand Jury. I think it would be hard to find a crime that more appropriately -- facts that more appropriately fit the crime. This does not mean that Mr. Holmes is contemptuous. To the contrary he has not been contemptuous to the Government at all. He has been a gentleman at every step of the way. Even when he was the defendant and there was a court process going along. I think that is important.

When I say the facts fit the crime, he was contemptuous, however, of the Grand Jury, of his oath and of the Court process when he made that fateful decision not to tell the truth. The question is why. Why did he do it? What was his motive. I think an absolutely peculiar thing about this is had Bud Holmes come into the Grand Jury and given the evidence that he was obliged to give he would not have had admitted to any federal offense on his part. So the question is why did he do it? Bud Holmes' explanation, and we have no reason to disbelieve him at this point, is he did it because of friendship for Judge Nixon. He did not want to disclose to the Grand Jury evidence that would have incriminated Judge Nixon.

Now, of course, the Greek philosphers rank friendship very very high on the list of virtues. However, in a legal system friendship must yield to the obligations to respect the oath, to respect the Grand Jury and to respect the Court. Frankly, Your Honor, Bud Holmes had his priorities mixed up, he respected the wrong master and frankly I don't think the Court can wink at this mistake.

Bud Holmes is not the only one of this investigation to have their priorities mixed up when they entered into the Grand Jury and this really brings us to the factor decision, the deterrence factor.

I think like in the Fairchild case this is the most important factor for the Court to consider. This Mississippi investigation has been marked by lack of respect for the oath. Witnesses have come into the Grand Jury with the agendas that did not include truth telling. Frankly, Your Honor, that is intolerable. The system can't work with that perspective from witnesses. Bud Holmes, a very very prominent individual in Mississippi, was one of those people. In a real sense the eyes of Mississippi and most particularly the eyes of the legal, the political and the law enforcement community are on this Court this morning. I think this is a wonderful opportunity for this Court to underscore the sanctity of the oath and to make crystal clear that no obligation comes before a citizen's duty to tell the truth.

On the other hand, of course, we have a flesh and blood human being who faces sentencing. I ask that the Court take this into account and it's our hope that this sentence imposed will also provide incentive to Mr. Holmes to use his considerable skills and abilities for public good in the future. Thank you.

THE COURT: You want to say anything?

MR. FANNING: Just briefly, Your Honor. I would have to say that I agree with much of what Mr. Weingarten said and I noted with particular interest his remarks about others taking the same position in the Grand Jury. It is true that others took the position in the Grand Jury and obviously did not tell the truth. Having reviewed much of the Grand Jury testimony which was given to us as Jencks Material in the case I noted with interest that it was my sincere belief on viewing the testimony and knowing the facts of the case that some of those people that disregarded the truth in the Grand Jury were not prosecuted for that and will not be sentenced, obviously, since they were not prosecuted.

Mr. Wiley Fairchild to my understanding was prosecuted for it and pled to it and pled to perjury and was given sixty days in the halfway house. I would close simply on saying, Your Honor, that the purpose of this sentence I don't think is punishment because Mr. Holmes has been punished. It's obviously not rehabilitation, we all agree on that. What it is is a deterrence from others from engaging in the same type of conduct and it's important, I believe, that the Court feel, and I would have to agree that the Court shows that our system of justice is not one that people are going to be able to go into the Grand Jury and take an oath and lie and walk out and escape. And I understand the Court's feelings in that regard. However, Your Honor, I would address myself simply to the fact that for Mr. Holmes in the position that he finds himself in being a member of the Bar and being a public figure such as he is suffering everything that he suffered any sentence of incarceration whatsoever is going to have a devastating effect on him. He will come out of the penitentiary being an ex-convict. He will have to face that stigma of people saying there is Bud Holmes who went to jail. Whether he gets sixty days or five years is not going to make that punishment anymore overwhelming from the standpoint of what the public views it to be. Of course, it has an effect on Mr. Holmes' personally as to when he can get back to beginning his life again and try and become a productive member of the community and get himself back on his feet financially in earning capacity.

But what I am trying to say, Your Honor, to the Court is if you sentence Mr. Holmes to incarceration I think that any term of incarceration has a devastating effect and would carry the message to the public that I think the Court may well feel a need to do.

I guess I am entitled

in this position to state my own opinion. I think he's suffered enough and ought to be given a suspended sentence. If the Court disagrees and you decide that you must impose a term of incarceration I would ask the Court be compassionate and to take into account my argument that I think that any term of incarceration would serve the need that the Court I think may feel needs to address itself. That's all, Your Honor.

THE COURT: I would tend to agree that there is no doubt of him being punished. Certainly his prior life doesn't indicate that he needs to be rehabilitated. Something that transcends the individual, all of us, we are all part of a system that is designed to serve our people. We have to serve it fair. If we don't, we contribute to its deterioration and destruction.

I take no personal pleasure in sending anyone to jail, particularly a man in Mr. Holmes' position. But I cannot give a suspended sentence. I might as well start at that.

The public preception in this case is extremely important, the deterrence of others. If I did what my emotions would dictate to me I would suspend this sentence but I can't reconcile that with the purpose.

In accordance with and pursuant to the plea agreement entered into, Mr. Holmes, I sentence you to serve one year in the custody of the Attorney

General, impose a fine of $10,000 and a special assessment -- that is applicable?

MR. FANNING: $50 special assessment?

THE COURT: Yes.

MR. FANNING: Judge, we're not going to argue with you about it if it is or isn't.

THE COURT: It's applicable. It's $50.

MR. FANNING: That's not anything we're going to appeal, Judge, if you impose it.

THE COURT: I assume that he needs time to report?

MR. FANNING: Your Honor, we would ask the Court if you would entertain all counsel in Chambers to discuss that matter, unless you want us to come to the bench?

THE COURT: You can come to the bench.

(Conference at the bench, off the record)

(Open court)

MR. FANNING: Judge, in connection with this matter we would first make a motion to the Court that the defendant be allowed to self-surrender at the designated place of incarceration Monday, the 17th of February.

THE COURT: Tuesday, the 18th.

MR. FANNING: Tuesday the 18th. Additionally, Your Honor, I would move the Court for a recommendation as to a place of incarceration and give the Court two institutions which we would ask the Court to designate. The first one being at Maxwell Air Force Base, the camp at Maxwell. In the event that Maxwell is to capacity, Your Honor, we would additionally ask the Court to recommend Eglin Air Force Base. Both of which are Level I institutions. Further request that the Bureau of Prisons be advised Mr. Holmes is formerly a law enforcement officer having been the DA and prosecutor in Forrest and Perry Counties, Mississippi, so they can take that into consideration when making their designation.

THE COURT: The motion will be granted and the Court will particularly request the Bureau of Prisons that he be incarcerated either at Maxwell Air Force Base or Eglin Air Force Base in Florida. Maxwell in Alabama. And if the Bureau is unable to do that the Court be so advised prior to a date of reporting, mainly February 18, 1986. And a particular reason for that being that the Court does not want the risk of incarcerating him in any area where he might have people who are serving time as a result of his activities during the time he was in law enforcement.

I will ask you to sign that agreement to report. There is no doubt in your mind that you can self report? I have to ask you that question.

MR. HOLMES: Me?

THE COURT: Yes.

MR. HOLMES: Yes, sir, no doubt.

(Mr. Holmes signed the document)

MR. HOLMES: Your Honor, I asked Mr. Fanning if it were appropriate for me on a personal note to thank this Court for being so understanding and the Court being so very dignified in conducting of the many many court courtesies it extended to me through the attorneys and that also I would like at this time to thank Mr. Weingarten and Miss Little. I know it has not been a pleasant task for them. I want to believe they take no personal delight in this but it's their job, it's what they're hired to do and I wouldn't respect them if they didn't handle it the way they do. I want to say this is the greatest country in the world and how fortunate we really are. The Lord has certainly been good to me. And I am standing right now and I feel like Lou Gehrig when he said I feel like I am the luckiest man in the world. Thank you, Judge.

MR. WEINGARTEN: We move to dismiss the indictment.

THE COURT: Motion is granted.

Court stands adjourned.

REPORTER'S CERTIFICATE

I, Arlene Movahed, Official Court Reporter, for the United States District Court for the Eastern District of Louisiana, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a full, true and correct transcript of proceedings had in the within-entitled and numbered cause on the date hereinbefore set forth and I do further certify that the foregoing transcript has been prepared by me or under my direction.

Arlene Movahed

ARLENE MOVAHED
Official Court Reporter
United States District Court
Eastern District of Louisiana

EXHIBIT
Respondent's
Exhibit 62

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 62

MR. FAWER: That is accurate.

(Off record.)

(Evening recess.)

(Chambers, February 8, 1986:)

MR. FAWER: The government has requested a charge on polygraphs in this case. I don't know the number. Government's request, proposed request E. The Court has agreed to give the charge as described in exhibit E, and defendant objects to the giving of the charge insofar as this is an issue that is not in the case. The reason it was raised in trial at all is that in the plea agreement with Bud Holmes the government conditioned the plea upon their right to give a polygraph on the issues raised in the case, and I simply brought out that they did not give Bud Holmes, ask him to take a polygraph on the issue. That does not mandate or should it require this charge. I believe the charge is misleading and prejudicial under these circumstances.

(Off record.)

(Open court, Jury present:)

THE COURT: Government may proceed.

MR. WEINGARTEN: Thank you, Your Honor.

BY MR. WEINGARTEN:

Your Honor, defense team, Judge Nixon, ladies and gentlemen of the jury. Good morning.

The case is coming to a close. The job of the attorneys is coming to a close. Soon it will be you twelve jurors, rich in common sense and experience from living in this community, who will have to decide the guilt or innocence of the defendant, Judge Walter Nixon. In so doing, as we have said from the outset, you must leave all prejudice, fear, favor, outside the jury room. You're like surgeons. Your scalpels are your common sense. You're to cut away everything but the truth, base your verdict on the truth and only the truth. Of course it's just you twelve. Not you four. Happily no alternate was necessary, or apparently necessary in this case, and it will be you twelve jurors who will decide this matter.

I said in my opening statement that there are two issues to revolve in this case. First issue, was the oil transaction a legitimate business deal or was it an illegeal gratuity? Issue number two, of course relating to the perjury, did Judge Nixon get involved in the Drew Fairchild drug case? I said those were the issues in the opening statements, they remain the issues today.

Let's look at the evidence adduced at the trial as the evidence is connected to those two issues. The case began with the grand jury foreman, Mr. Ward from Meridian, Of course he introduced the grand jury transcript which contained the allegedly perjurious testimony.

Then Drew Fairchild testified. We put Drew on the stand not because he had incriminating evidence against Judge Nixon, of course not. He never knew Judge Nixon, but because the processing of his case is so central to this proceeding. You recall that there was a bust at the Hattiesburg airport in August of 1980. You recall of course that Drew Fairchild was the manager along with an individual named Royals at the airport and you recall of course that he cooperated with the smugglers to bring over two thousand pounds of marijuana into Hattiesburg. You recall that originally it was a federal case. You recall that Drew was summonsed -- Drew went to Jackson to meet with the U. S. Attorney's Office on November 19th and reached a Memorandum of Understanding wherein he would provide cooperation to the federal government in return for a guilty plea and probation. You recall that testimony that the cooperation from Drew Fairchild was deemed not to be satisfactory, and the United States Attorney's Office perceived that Drew would be prosecuted like the other smugglers.

And then you recall of course that Bud Holmes sometime in 1981 got interested in the Drew Fairchild matter and sought the case from George Phillips. You recall George Phillips was happy to pass the case to Bud, considering it a matter of interest to Hattiesburg, and overwhelmed with cases in Jackson. Drew was indicted at the state level in August, 1981.

You recall that several months later, January 1982, he pled guilty in state court in Hattiesburg, Mississippi, in the state courthouse down the way a bit, and promised to testify against a fugitive, an individual named Watkins. You recall that a period of time passed after that following the guilty plea in January of 1982, Watkins was a fugitive, Drew had back problems, there was a serious of continuances.

Then in December, 1982, came a central event at this trial, and that is the Drew Fairchild case was passed to the file by Bud Holmes. You recall sometime later, thirty, thirty-three days the case came back from the file after Dickie McKenzie became the Judge.

You recall that again there was a delay in the Drew Fairchild matter, and the next significant event you recall was when Dickie McKenzie and Bud Holmes visits Wiley Fairchild in December of 1983 to discuss the resolution of Drew's case. You recall of course the case was not resolved at that time, the Drew Fairchild case continued to remain in a pending situation until the State of Mississippi decided that Bud Holmes' plea agreement was not acceptable, the Court so decided, Drew Fairchild withdrew his plea, was indicted in federal court in 1985, and finally was sentenced in 1985 by a federal judge from Louisiana and served a period -- sentenced to six months in prison and served a period of four and a half months. Like a ping pong ball the Drew Fairchild case. A long, arduous course. The significant events, he was part of a bust or part of a conspiracy in August 1980; not until 1985 that he does go to prison.

George Phillips testified briefly. Of course, George testified as to how the federal government handled the case.

And then we put on Skip Jarvis. You remember Jarvis. A lot could be said about Jarvis, young guy in his thirties, lawyer, presently a district attorney in Florida, his wife is kin to Wiley Fairchild, couple of kids, worked for Fairchild, a bright, opinionated guy, a little James Bond in his blood, volatile relationship with Wiley; could go on and on about Skip Jarvis, but not much of it would be relevant. He offers no evidence of misconduct against Judge Nixon.

He was put on the stand because of our belief that you had a right to see how the government's case got under way, and it got underway in November, 1983, when Skip Jarvis called the FBI annonymously. He made a few more annonymous calls and then he agreed to surface. He met the government in early 1984, and he made an allegation similar to allegations he had made during the annonymous telephone calls.

The allegation was that he believed there was something suspicious, something improper about an oil transaction between his former employer, Wiley Fairchild, and Judge Nixon. His proof at the time? Well, he maintained that the transaction took place in February, on February 25th, 1981; when he was asked to prepare deeds that he prepared three deeds, he prepared deeds with the grantee in blank pursuant to instructions from Wiley Fairchild. He prepared deeds with, one royalty -- with one acre as the amount that would be transferred, and he sent those deeds to Carroll Ingram. It was his testimony that those deeds came back with instructions to increase the acreage and to backdate them.

Skip Jarvis testified that he later learned that the grantee was Judge Nixon, and he became suspicious of the deal. He concluded that there was a link between the deal and Drew Fairchild's case. His reasoning was that the bust at the airport and the implication of Drew took place in late 80. He concluded from the backdating that the deal was official in 1981 and was backed up to make it appear that it took place before Drew's trouble.

He claimed and testified that his suspicions were reinforced when Wiley Fairchild after the deal advised him to try to seek to get some litigation in Judge Nixon's court. He brought his suspicions to the FBI. To test his suspicions, the FBI asked Skip Jarvis to wear a secreted tape recorder and have a conversation with Wiley Fairchild, and he did so. In fact he had two, one face to face and one on the telephone. The results of those conversations are quite clear. Wiley Fairchild maintained quite clearly that there was nothing wrong at all with his relationship with Judge Nixon. He also made serious allegations against Bud Holmes and Carroll Ingram, and he also disclosed some questionable behavior on his own part.

And what was that behavior? Well, he denied on the tape any knowledge originally about the backdating. Then he suggested to Skip that Skip needn't disclose information about the backdating to the FBI, and then he said, and I'm quoting now, "Certainly I'd rather do something for a judge or prosecuting attorney. No, a judge, period. I'd rather do something for them than the average fellow, because they're the ones that can help you if you ever need it."

After those tapes, Skip Jarvis' -- this is April, 1984 -- substantive involvement in this case ceases, has nothing more to do with this case after that.

We can turn now to the real evidence in this case, and that is the evidence from Wiley Fairchild, Bud Holmes, and Carroll Ingram. These obviously are the important witnesses in the government's case.

Now, who was Wiley Fairchild? He's an old man, man with nominal education. He's a millionaire, a little cantankerous, a little inarticulate. I submit to you, ladies and gentlemen, the issue for you with regard to Wiley Fairchild is did he tell the truth at this trial? In many ways you can determine, but I suggest a way you can start: Ask your gut. In the pit of your stomach, was Wiley Fairchild trying to tell the truth? Ask yourself, did he have any motive to lie? Did he demonstrate any animosity whatever to Judge Nixon? Did he demonstrate any animosity or favor to the government?

Of course Wiley Fairchild entered a plea to a gratuity, to paying a gratuity to Judge Nixon and was punished for it. I suggest to you that can cut both ways, mean he has no love lost for the government or can mean he doesn't want to get in any more trouble. Obviously his memory is a question, he's an older man, but can it not be said that this older man did his level best to tell you the truth at this trial? He testified at great length on both direct examination and on cross-examination about this oil transaction. He testified that it began when Carroll Ingram asked him to put the Judge in a good oil deal.

Very important question asked Wiley Fairchild, when was that first approach? Wiley Fairchild had no diary, had no calendar, but his testimony was that it occurred when Drew's case was pending in federal court. Now that answer is dramatically different than Judge Nixon's testimony, that the deal originated, according to Judge Nixon, in early 1979, Wiley Fairchild got involved in later 1979. There is a year difference there. Somebody is wrong. Ask yourself who it may be. Ask yourself what motive in the world Wiley Fairchild would have to testify falsely about anything.

What was his response to the request to put Judge Nixon into a deal? He was delighted, there is no issue there. Why? His answer was because Judge Nixon was an influential man. There followed no negotiations, no discussions between the two men, no bartering back and forth, but rather Wiley picked three wells and his office produced three deeds.

The deeds were to be effective from the first day of production. It's an important point, ladies and gentlemen. Those deeds, be it the 81 deeds or the 80 deeds, were to be effective to the recipient the first day of production, irrespective of when they were dated. The issue was to be the money that was to go to the recipient at all times, it was to be from the first day of production.

Fairchild was asked, how much would you say those wells were worth? I think it's a question that was properly placed to a man who has enormous success in the business. His estimate was at the time of the selection, between 26 and 28 thousand dollars. Fairchild testified that after his office produced the 1981 deeds he received instructions from Ingram to backdate them. He was asked what his recollection was for such an instruction and he said something about the disclosure forms. He said that Ingram said to him that they would, quote, look better if they were backdated. Why would Wiley Fairchild say that if that didn't happen? Where is Wiley Fairchild's axe to grind here? I suggest to you the man did his best to present to you the truth as he recalled it.

He testified that the deeds, the royalty interests and deeds indeed were worth more in 1981 than in 1980.

Fairchild remembers nothing about the arrangements with Judge Nixon as to how there would be payment for the deal. You can infer from that, from the evidence, any arrangements at all for the payment of this transaction resulted from discussions between Judge Nixon and Carroll Ingram, not with Wiley Fairchild, the person who was transferring the deeds. No recollection at all of ever taking back notes in a mineral royalty interest deal. Again, you can conclude from that it was Carroll Ingram and Judge Nixon who decided Wiley Fairchild would take back paper.

Fairchild summed up the deal I think very effectively in the course of his testimony. On Page 506. Testimony was as follows: "Well, when I sell something, I want to get something, I want to get something, of course, for it, and something, something where it won't look like a hundred per cent gift.

"Question: Was that the situation in this case, Mr. Fairchild?

"Answer: I'd say yes."

There came a time when Judge Nixon met Wiley Fairchild. Judge Nixon testified that the first meeting was in 1980 before the deal was formally consummated, Wiley Fairchild testified it was after. Then Carroll Ingram supports Wiley Fairchild on this point. Wiley remembers Judge Nixon saying to him, if I can help, I can help you I will, if I can't I'll tell you I can't. The issue is what was Judge Nixon talking about at that time? Was he thanking Wiley Fairchild for the first time for this deal and suggesting to him there might be something coming to Wiley Fairchild? Or was he, as Judge Nixon testified, offering Wiley Fairchild legal advice? That will be a question for you.

At this time, of course, Drew Fairchild's case is proceeding. I think it's perfectly clear and beyond dispute that Wiley Fairchild was plenty mad at how it was proceeding in state court. I think he had several beefs, according to the evidence.

First the publicity. Can there be any doubt Wiley Fairchild was sick and tired of the Fairchild -- of the case being dragged through the newspapers and casting disgrace on the name that he was so proud of? Can there be any doubt after the testimony of Glenn White that virtually every legal proceeding in the case, every continuance, every extradition hearing, everything having to do with the Drew Fairchild case produced media attention? Wiley Fairchild testified that the fact that Drew was not prosecuted severely was causing intimations he had paid off somebody to keep Drew out of jail. Of course that didn't make Wiley Fairchild happy. Wiley Fairchild testified that he was upset that the case had dragged on and on and on. The delay didn't make Wiley Fairchild happy.

Of course, he was very, very irate that Robert

Royals, the co-manager who had not been prosecuted to that point, not indicted to that point, had the temerity to come to him and talk to him about money. Wiley interpreted this to be a shakedown. He was real upset about all those factors, and he was looking for help, and he looked to Judge Nixon. He can't say when he looked to Judge Nixon, and he can't say specifically what triggered the reaction, but he left no doubt from the witness stand that it was the Drew Fairchild case and its handling that upset him, and there is no doubt to whom he turned for help.

Why couldn't he give you a specific date and why couldn't he give you a specific reason? Because this is not a script, this is not a play. This is a man in his 70's, took the witness stand and is trying his very best to give you the truth. He recalls events, not dates. I think that's consistent with his testimony throughout. What did he want Judge Nixon to do or what did he want at that point? According to Fairchild, he wanted to get Bud Holmes to do what he promised to do. He testified that prior to that, he learned from Drew's lawyer Porter that if he had paid the legal fee, the ten thousand dollars, that Drew's case would be handled, it would go away, and that would be done by Bud Holmes. Apparently that was not the case, at least as perceived by Wiley Fairchild.

Judge Nixon came to his office and Wiley Fairchild discussed the matter with him. On Page 484: "I told him what it was that they was trying to blackmail me and I wasn't going to be blackmailed, and that what Bud had promised to do, and I said now if they will go ahead and prosecute Bob Royals, won't hear a word, because he's guilty just like my son."

Testified about the meeting a little bit later, on Page 528: "You testified yesterday that you used the word blackmail in your conversation with Judge Nixon, is that correct?

"Answer: Yes.

"Did you indicate to Judge Nixon who it was that you thought was blackmailing you?

"Answer: Well, I thought it was Bud Holmes.

"Question: Did you tell Judge Nixon that?

"Answer: Yes.

"Question: Did you make any request of Judge Nixon?

"Answer: Well, he had said if he could ever help me he would, and I just told him about that I would be, in my opinion I was being blackmailed, and that I was damn tired of it, street talk was the reason my son was got out because I had been, had paid somebody off, and --

"Question: Did you make any request of the Judge?

"Answer: We had this conversation. I told them that Bob Royals was just as guilty as my son was, and if they would go on and prosecute him, they wouldn't hear a word out of me.

They wouldn't hear a word out of me. At that time then Drew and I wasn't on good terms, but I was fed up with all this newspaper stuff, street talk, and I assumed he would go and talk to the --

"Question: Talk to who?

"Answer: To Bud Holmes."

What is Wiley talking about at that moment if he's not talking about his son's case? Wiley testified that he was doing the talking. He doesn't recall a response by Judge Nixon. He said Judge Nixon probably made a response but he didn't remember. It's interesting here, Judge Nixon's testimony is consistent in large measure with what Wiley said he told Judge Nixon. It's also consistent in large measure with what Wiley testified the Judge told him on their first meeting about how he would help if he could. Which means that could well be true, which means when Wiley Fairchild recalls a conversation, he could well be recalling it accurately.

The next event puts that to the test, and that, of course, is the phone call from the farm. Wiley testified that on the same day following his meeting with Judge Nixon he received a telephone call, a telephone call in which he spoke to first Judge Nixon and second to Bud Holmes, and let's see precisely what Wiley had to say about it.

"Did you have subsequent contact with Judge Nixon about your meeting?

"Answer: He called me that night just about seven o'clock.

"Question: What did he say?

"Answer: He said Wiley, you know that man we was talking to this evening? I said yeah. He said, well, I'm in his home, and everything is going to be taken care of to your satisfaction. I says thank you, I appreciate that.

"Question: Did you recognize the voice at the other end?

"Answer: Yeah.

"Question: Did he identify himself?

"Answer: No.

"Question: How did you recognize his voice?

"I can just recognize voices.

"Question: What followed the conversation with Judge Nixon?

"Bud got on the phone, Bud Holmes.

"Question: And did you recognize his voice also?

"Answer: Oh, yeah, yeah.

"Question: What did he say to you?

"Wiley, when this man asks me to do something, I don't ask no questions, I just go ahead and do it.

"Question: What did you say?

"Answer: I said thank you, Bud, I appreciate it.

"Was there any further conversations?

"No.

"What's the next thing that you recall happening in your son's case?

"Well, it was later passed to the file."

This evidence contradicts Judge Nixon's testimony in three very significant ways. Wiley Fairchild testified that it was Judge Nixon who first spoke to him in this phone call from the farm. He testified that Judge Nixon gave positive news to Wiley about Drew's case, and he testified that this was a conversation that took place prior to the case being passed to the files. If Wiley is telling the truth here, Judge Nixon has testified to a series of falsehoods at this trial, and if this is the case, you conclude he has done this, he's put together a story to meet the perjury charges.

Let's take this one at a time. Who spoke to Wiley first on the phone? Was it Judge Nixon or was it Bud Holmes? Wiley says it was Judge Nixon. Why would the old man lie on this point? Is it not something that he would recall if the conversation was of significance to him, and was it of significance to him? Well, let's see.

"Do you recall the call, sir?" On Page 489.

"Yes.

"Do you recall it well?

"Yes.

"Question: Why?

"Answer: Well, it was, it made me happy. I thought my son's case was going to be done away with once and for all.

"Question: How did you find out the case was passed to files?

"Answer: Carroll Ingram, best I remember, brought me a copy of it where it had been passed to the files, brought it out to the office, I believe he said something about I got you a Christmas present, something, I was real happy. Called Drew's wife, she was happy too, come out there, got a copy of it."

Is that not compelling evidence that, A, case was passed to files after the call; B, Judge Nixon imparted news to Wiley that gave him a sense of joy, and C, corroborates Wiley's recollection that it was Judge Nixon who got on the phone first and not Bud Holmes.

I thought a key time at trial came when Mr. Fawer cross-examined Wiley. Mr. Fawer is a brilliant lawyer. He's an incomparably skilled cross-examiner; from a purely technical point of view it was fun, frankly, to watch him. He got -- Wiley was no match for Mr. Fawer. Mr. Fawer got Wiley Fairchild to move a great deal in many directions, but there came a time when question after question was posed to Wiley Fairchild about whether or not the call from the farm was before or after the case was passed to files. It was in the afternoon, and Wiley was visibly tired, he was yawning, but on this point the gentleman from Covington County would not yield. Over and over again he said, Page 660: "Well, when I had this conversation with Judge Nixon it had not gone to the files.

"Sir?

"I'm positive of that."

Wiley Fairchild: "Well, I know that when I talked to Judge Nixon, that they had not been passed to the files or I would not have mentioned it to him."

Page 666: "Well, I know it hadn't been passed to the file when I talked to Judge Nixon."

Page 667: "Well, it was after I talked to him it was passed to the files."

Wiley Fairchild never moved off that point. What's it to him at this point in time? There is no hook into Wiley Fairchild, he's not being prosecuted for anything at this point. Was it not simply an effort by this man to give his best testimony? If you believe that, if you believe Wiley Fairchild on that point, a crucial point we submit, it puts the lie to Judge Nixon's testimony.

After Mr. Fairchild came Bud Holmes, and we could talk about Bud Holmes for a week if we wanted to. He's a flawed man. He's a fascinating man. A man with substantial accomplishments, substantial contributions. Successful lawyer, formerly district attorney, a successful businessman, he represents football stars, including none other than Walter

Payton, and a close, long time friend with Judge Nixon. He didn't have much involvement with the oil deal. Judge Nixon solicited his advice about Wiley and he provided it. He testified that Judge Nixon advised him that he may have a chance to invest with Wiley Fairchild, and Bud testified, and I remember my impression was that Mr. Fairchild has a reputation of also getting close to people like Governors. My advice, if Mr. Fairchild wanted him to do some investing with him, I thought it would be very, very safe, and I did not feel Mr. Fairchild with the reputation that he had would be any way that he would, any way that he would lose money investing with Mr. Fairchild.

That evidence is significant for purposes of analyzing what Judge Nixon's state of mind was during the course of his business dealing with Wiley Fairchild. Of course there was a great deal of evidence about Bud's handling of Drew's case, and unquestionably there was some unusual, bizarre things that Holmes did. First and foremost his seeking the case. He testified during this trial that at least one of his motivations had something to do with Bill Porter's fee or lack thereof from Wiley Fairchild. He testified that that's what brought his attention about the case. He testified that it was his intention of presenting the matter to the Forrest County grand jury anyway for report because it was a bust that took place in Hattiesburg, but that when Porter advised him he had not been paid, that prompted him to pick up the phone and find out what the status was. Learned Drew was not cooperating he decided to prosecute Drew Fairchild and the pilot. Is that disgraceful behavior for a DA? Well, it's disgraceful if Bud Holmes' only motivation was to generate a legal fee for his buddy, that would be an absolute disgrace. Of that there is no doubt.

If what happened here, and I believe it's consistent with Holmes' testimony, is that his attention on this case was triggered by Porter and he made the call, made an inquiry because of Porter's persistent moaning and groaning about his lack of legal fee and then handled the case fairly, well, I'm not sure that's entirely disgraceful.

Certainly Porter's conduct is disgraceful. Can you imagine a defense attorney going to a district attorney, complaining about his fee hasn't been paid, and thereby generating an indictment? But Porter is not on trial and we needn't discuss that. At best, however, from that point of view, it shows him to be a man who will allow his official conduct as district attorney to be influenced by the financial affairs of a friend. And is that not exactly what he did when he passed the case to files, with the friend this time being Judge Nixon?

Let's get to that. Let's get to it after we discuss another extremely unusual thing that Bud Holmes did in Drew

Fairchild's case, and that is bring Dickie McKenzie, the local judge, out to Wiley Fairchild's office early one morning right before Bud was leaving office. Bud's testimony, I wanted Wiley to understand that there was a deal, Porter had died, I was willing to consummate the deal, I wanted a witness there, Dickie McKenzie.

Well, that's extraordinary. There is absolutely no doubt to that, to bring the Judge from the state court out to Wiley's office to discuss Wiley's son's case. Is it disgraceful? Is it criminal? Well, you heard Dickie McKenzie's version of it. I think it's highly unusual, it's highly unorthodox, but that's Bud Holmes.

Did Bud Holmes appear to be the slightest bit sheepish about either of those, taking the case from the feds or bringing Dickie McKenzie out to Wiley's office? I submit the answer is no. Bud Holmes' worldview, there is nothing wrong with either of those two things.

But is there something in the handling of the Drew Fairchild case that Bud Holmes was sheepish about? Was scurrying around to cover up? And I submit to you the answer is yes, and that was the passage of the case to the file. You've heard a great deal of evidence about that. I submit to you the bottom line, it was a legally absurd, pointless gesture. He passed the case to files that had already had a guilty plea, there had already been a plea bargain, Drew

Fairchild was slotted to testify against Watkins, Watkins was in Florida, was being processed to return to Mississippi, and right before Christmas, Bud Holmes passes the case to files. You heard Judge Weldy. Judge Weldy was the Judge in Forrest County prior to Judge McKenzie. He knew of one case in his experience in Forrest County in which a case passed to files ever came back. He knew of no case in which a man had pled guilty being passed to the files.

We analyzed this document with Glenn White, the present D. A., and Katie Matison. It contains absurd justifications. You can conclude from all the evidence in this matter, you can conclude from Glenn White that he wouldn't have done it if he were the D. A., the present D. A. You can conclude there was something very, very wrong, something very, very bizarre from Katie Matison's testimony. Her testimony was something was wrong, Bud Holmes was covering something up. You can conclude that this was nothing more than a Christmas present for Wiley Fairchild, a Christmas present, just an act, a meaningless act, of course, by the way because the case came back. A Christmas present to Wiley Fairchild that followed the visit to the farm by Judge Nixon. No other explanation to the passage of the case to the file, except that Bud Holmes wanted to do something for Wiley Fairchild.

And why did he want to do something for Wiley Fairchild? Of course we have to go back to the farm.

Following Judge Nixon's visit with Wiley Fairchild, he saw Bud Holmes. According to Bud Holmes it was an occasion that Judge Nixon came to his office. Bud Holmes' calendar, the district attorney's calendar, part of the evidence in this case. You'll note in that calendar that there are four occasions that Judge Nixon visited the D. A.'s office in 1982 after May of 1982, and at least on three of those occasions Judge Nixon when he testified could neither confirm nor deny he visited the D. A.'s office, but did confirm the fact on occasion he had visited the D. A.'s office.

Bud Holmes recalls, although he's not certain that the occasion of the telephone call was May 14th, he testified that his way of dating the call was to look back at the calendar and note that there is an indication on Thursday, May 13th, that the Judge had visited his office. He recalls that he went to a wedding May 14th, and thereby places the visit to his office on May 14th.

Now that's Bud Holmes' testimony. You'll note that he never was precise on the date, was giving his best recollection. You'll note that there were other occasions in 1982, as indicated by the book, that Judge Nixon visited the office.

Now, what does he recall? Why don't I just simply read it. He recalls that he and Judge Nixon drove out to his farm. Page 736. "Question: Who was riding out to the farm?

"Answer: Judge Nixon and I was driving. He had left his car up at the district attorney's office. And we had had, likely or not, it was a Friday afternoon, we probably had a drink up in the office Friday afternoon, maybe two.

"We was riding up to pick up the turkeys, this would have to be 6, 6:30, 7 o'clock, riding out, and Judge Nixon told me, he said, Bud, I never would have asked you to do anything against your oath of office, never asked you to do anything embarrassing to you, wouldn't ask you to do anything wrong. I said, yes, sir. He said, I was out at Mr. Fairchild's and he asked me to put in a good word for his boy, or would I say something to you about Drew. I think, I don't think he said Drew, I think he said his boy. I said, you know, well, I don't know. I don't know. What is it you want? You want an apology? I don't know, what does the man want?

"Question: Are you saying, did you say that to Judge Nixon?

"Answer: Yeah, that was about my response. I can't remember this, because as I recall this was like in May of 82, you know, when this occurred. But that was about my response, I mean I was feeling rich and good-looking and, you know, that would have been my typical type answer.

"He said I'm not asking you to do anything, I'm just saying that Mr. Fairchild asked me to put in a good word. Well, I knew Mr. Fairchild and the Judge were kind of getting to be buddy-buddies there.

"Question: How did you know that?

"Answer: Pardon?

"Question: How did you know that?

"Answer: He had told me, or Carroll Ingram had told me that they were or he told me, could a come from Mr. Fairchild.

"Question: Did he tell you why he'd called Mr. Fairchild?

"Answer: He could have. I don't recall offhand, it seemed like he might have told, somewhere during the conversation I knew there was a chance he was going to make some more oil and gas investments with him. Seemed like he said maybe Mr. Fairchild said they were going to take a trip somewhere, you know, now at what point in time, I don't remember but all this was, at that time it was nothing real important to me to really remember, so don't hold me and say it occurred on that time but general impression I had was they got to be on a first name basis and friendly. So, I took it on myself, said, well, Judge, I'm district attorney, I'll pass it to the files. And he said no, I'm not asking you to do that. Now, I'm not asking to you do anything now.

"Well, okay. We road on out to the farm, got the turkey, went inside. I asked him to come in, have a drink.

"Question: Whose house did you go to?

"Answer: Go to mine, which was out in the Barrington community. We went inside. He said that he'd come in and have a drink, if I had some Royal Salute, that's kind of a joke between us, very expensive scotch whisky, somebody gave it to me for Christmas a year earlier and I said I did. He came in, we had a drink, probably had a couple of drinks, and I had told him that I had already had this arrangement worked out with Bill Porter, the man had the same agreement that the federal court had offered, which was probation and a fine in return for his cooperation. He said do you mind if I call and tell Wiley? Or he could have said, Wiley, Mr. Fairchild. He said did he know? I don't know. I assume he did. Carroll Ingram sure knew it. And so he said do you mind if I tell him? I said no, I don't care.

"So he called him and as I recall the conversation it's something like --

"Question: Who made the telephone call?

"Answer: Pardon?

"Question: Who made the telephone call?

"Answer: He did. And he told him, he said, I'm out at, said do you remember the man we were talking about today? I'm out at his farm and he tells me that your son isn't going to jail, which was true, you know, because of the plea arrangement and I just wanted to call and tell you that. And he thanked him, told him I appreciate you letting me make some of these investments, you know, with you, and he said, you know, the judge's salary and the number of children I'm trying to educate and so forth, it was kind of hard and I do appreciate this opportunity.

"And, with that, I told him, I said let me speak to him. And I picked the phone up and I said Mr. Fairchild, I want to let you know, I hope you don't think there is anything personal about Drew and us and he said no, I never thought that. I'm real embarrassed about that and so forth and I take full blame here because Judge Nixon did not ask me to say or do this, but I told him, I said, I said I want to let you know that I want Judge Nixon to have credit for helping the boy. Of course I was misleading him because I already had the arrangement worked out with Bill Porter."

Now, is that Judas Iscariot talking? I suggest to you, if Paul H. "Bud" Holmes was out to do in his friend, Judge Nixon, he could have done a heck of a better job. He prefaced virtually everything he said in his testimony by Judge Nixon telling him, I don't want to embarrass you, don't violate your oath, I don't want to embarrass you, don't violate your oath. Why was he saying that if his point was to do in the Judge?

He testified about drinking. If his point was to do in Judge Nixon, why would he say that he had had drinks at the office, and he had drinks out at the farm? That only hurts his credibility. If he was out to do in the Judge, why would he testify that to his recollection the event in question took place on May 14th, triggering the event to a calendar entry of May 13th? I mean he's a smart guy, he's a lawyer, he knew he would be cross-examined on that point. He knew he would have to explain the wrong date. Would it not have been easier to select a date in his calendar that would have been correct? A day when Judge Nixon actually visited him?

He was accused during cross-examination of tailoring his testimony to Wiley Fairchild's to concoct a story against Judge Nixon. Is his version identical to Wiley Fairchild's? Obviously it's not. And it's not because it was his recollection, not a script, not a play, not a soap opera; it's his real life, fresh and blood recollection. I suggest we'll examine a carefully crafted script in a minute.

If he and Wiley Fairchild had said on October 20th, at 7:12 p. m. there was a telephone call, Judge Nixon said precisely this, fits perfectly well together, that would be completely absurd. That's not the way it works in the real world. Obviously Wiley Fairchild and Bud Holmes will have different recollections about an event that took place in 1982. But are they not consistent on all the crucial points? The point being who placed the call? The point being did Judge Nixon give Wiley Fairchild some favorable news about Drew's case? And the question about the time, it was before, or after the case was passed to the files? Let's face it, I mean that is a dead square issue in this case. Judge Nixon testified unequivocally that the call took place in 83. Fairchild and Holmes testified unequivocally that the call took place in 1982. Somebody is flat out wrong. I suggest to you that Holmes and Fairchild on these three points put the lie to Judge Nixon's testimony.

After the Justice Department began its investigation Holmes spent a lot of time worrying about this telephone call. He went so far as to lie about it in the grand jury, as he puts it, to cover it up. The key question, I submit, is what was his motivation in so lying? Obviously, I don't think he denied it, he certainly was concerned about his own exposure. I think the crucial question is, was his concern, did it originate from his own behavior with regard to the phone call? Or did it not concern his conduct only after the investigation began? I think the answer is obvious. If Bud Holmes had done something improper in the course of the call, would Wiley Fairchild have not so testified? I mean, let's face it, there is no love lost between Wiley Fairchild and Bud Holmes. I think it's clear Wiley Fairchild does not like Bud Holmes. He's made allegation after allegation against Bud Holmes. Yet Wiley recalls Bud's participation in this phone call to be secondary. It was Judge Nixon, according to Wiley Fairchild, who first got on the phone and first gave him the good news.

Bud's tragic error in this case is he allowed himself to be used as interference by Judge Nixon. He took his cue from the Judge that the line was going to be that Judge Nixon had absolutely no involvement with Wiley Fairchild on the Drew Fairchild case, and he carried that line right through the oath in the grand jury when he lied about the call in February, 1985. And for that behavior, he justifiably now faces a jail sentence, a jail sentence he's challenging, and a challenge that the United States is opposing.

The irony about Holmes' situation is he lied about conduct that was not criminal on his part. His call to Wiley Fairchild is no -- passage of the case to files, it was bizarre, but it was meaningless. It was important to Wiley Fairchild, but it had absolutely no legal effect on Drew Fairchild's case. It was a Christmas present to Wiley, a Christmas present motivated by the phone call wherein Judge Nixon advised Wiley that there would be a good result in Drew's case.

When it comes to the phone call, it was Judge Nixon, not Bud Holmes, who had the most to lose by its disclosure. It was he, not Bud Holmes, who was the one who sought to put a good word in for a drug smuggler. It was he, not Holmes, who was the one who was receiving royalty interests from the drug smuggler's father. It was he, not Holmes, who was the one who wanted more deals from the smuggler's father, and it was he, not Holmes, who was the federal judge.

Holmes made a big mistake. He put his friendship with Judge Nixon above his responsibilities as a lawyer and a citizen. For that mistake he deserves punishment. That mistake, however, does not make him Judas Iscariot, does not make him unworthy of belief. I submit from the evidence you can conclude under very painful circumstances he came into this courtroom with one purpose in mind, and that was at this point in time to tell the truth no matter how the chips may fall. I submit to you, if Bud Holmes wanted to do in his friend, he could have done a much, much better job. But his testimony nevertheless, corroborated by Wiley Fairchild, makes Judge Nixon out to be a perjurer.

Carroll Ingram, next witness, prominent lawyer, good friend of Judge Nixon. He testified at length, too, and he testified about the oil deal. He testified to his first contact with Judge Nixon, general discussions where Judge Nixon indicated an interest for investments and then the question on 1026: "Did the general discussions ever become more specific?

"Answer: They did.

"Question: When and how?

"Answer: Well, I would say sometime during the year of 1979 and probably later toward the end of the year he specifically asked me about the possibility of making an investment in oil properties with Mr. Wiley Fairchild.

"Question: Who mentioned Wiley Fairchild first?

"Answer: Judge Nixon did."

Of course that's inconsistent with Judge Nixon's testimony. Judge Nixon in the interview of April, 1984, also advised the government that he had no notion prior to Carroll Ingram forwarding Wiley Fairchild's name that Wiley Fairchild was in the oil and gas business.

Carroll Ingram's testimony is otherwise. Carroll Ingram testified that he was reluctant as a result of this approach but nevertheless contacted Wiley Fairchild only after some delay. He then testified at great length, he fleshed out the oil deal, talked about the notes, talked about the deeds, talked about the backdating, and he said that the purpose of the backdating was to reflect the value of the deal at the time when it was orally set, and yet he could not say that there was an oral confirmation on February 25, 1980, exactly one year prior to Skip Jarvis preparing those deeds.

I think you can conclude that 2-25-80 is a date simply picked out of the air. It was a meaningless date, it was a date picked out of the air to reflect value. I believe you can infer from that that it was an effort to make the deal look legitimate. It was an effort to set a date wherein it would not look like Judge Nixon was getting something for nothing. It was an effort to make the deal look good.

Before Wiley Fairchild's testimony, it was only after his son got in trouble that he was first approached. Carroll took it back in 1979, Judge Nixon put in back in 1979. Is it reasonable that Judge Nixon would have mentioned Wiley Fairchild in 79, early 79, and there be no deal until February or March of 1981? Almost two years would pass? Does that make any sense at all? Carroll Ingram knew about the telephone call. He knew because Wiley Fairchild had told him.

"Sometime in late fall 1982 Mr. Fairchild told me that he had asked Judge Nixon to talk to Mr. Holmes about the Drew Fairchild case.

"Question: What else did he say to you?

"He said that Judge Nixon had talked to him and Judge Nixon had confirmed that he had talked to him.

"And did he get any results from Judge Nixon?

"Well, the results he indicated to me were the results were positive, that he in fact talked to him, and those results were positive.

"In what sense positive?

"In the sense of well being, Drew Fairchild's case was going to be okay.

"Where did Wiley Fairchild say he got this information?

"Said he got it from Judge Nixon.

"Do you have any personal knowledge of Drew Fairchild's case being passed to the file?

"I know it was passed to the files the latter part of

December, 1982, and sometimes after it was passed to the files, the district attorney's office, Mr. Holmes gave me a copy of the order passed to the files and asked me to send it to Mr. Fairchild and I did.

"Did the information you received from Mr. Fairchild about his contact with Judge Nixon come before or after the case was passed to the files?

"Answer: Came before the case was passed to the files."

Carroll Ingram also had contact with Judge Nixon about the telephone call. I submit this contact is of great importance to this case. Page 1188: "What did Judge Nixon tell you first off about his contact with Wiley Fairchild and Bud Holmes in the Drew Fairchild case?

"Answer: I believe that there's only been one statement that Judge Nixon has made with respect to the Drew Fairchild case and as I told you this morning, he made the statement to me that Mr. Fairchild had asked him to talk to Mr. Holmes about Drew's case.

"Stop there for one second if you may.

"Okay.

"In connection with that statement did Judge Nixon indicate to you that Wiley Fairchild had expressed some concerns about the handling of Drew's case?"

There was an objection from Mr. Fawer. Court said, "Proceed.

"Please continue."

Mr. Ingram, "Okay. There was a sense that Mr. Fairchild's concerns about Drew's case and that that was why he was asking Judge Nixon to talk to Mr. Holmes about the case and Judge Nixon simply was saying that I did talk to Mr. Holmes about the case and have -- and was saying that to me that he did.

"Question: Did Judge Nixon indicate to you that Wiley Fairchild had expressed those concerns before?

"Answer: I got the sense or the belief that there had been an expression of his concern before, but I don't have any personal knowledge of that. I don't know a way to nail that down. But yes, I think that his concerns had been there for sometime.

"All right. And what exactly did Judge Nixon tell you he did about Wiley Fairchild's request?

"Said he talked to Mr. Holmes about it.

"And did he indicate to you what Mr. Holmes' response was?

"That Drew Fairchild's case was okay, there was not anything going to happen in Drew Fairchild's case.

"And did Judge Nixon indicate to you whether or not he conveyed that information back to Mr. Fairchild?

"He did.

"And what did he say?

"Said he told Mr. Fairchild that I believe he called him Wiley. Told Wiley that."

Contemporaneous with those conversations, Mr. Ingram had conversations with Judge Nixon about something else. And that was further possible mineral transactions.

"Question: Did Judge Nixon make any request of you about other possible investments?

"No, he didn't make any request of me but I think he wanted me to be favorably informed and advised about it. I didn't view it as necessarily a request for me to go do something about it. I think he wanted me to be in the posture of being helpful to him if I could."

I submit you can infer from that, Judge Nixon did, he advised Carroll Ingram he had helped Wiley Fairchild on Drew's case through Bud Holmes so as to encourage Carroll Ingram to continue to be of assistance in allowing more oil investments with Wiley.

Holmes fleshed out the phone call after the investigation and conversations with Ingram. He told them about the phone call, he told them about the content of the phone call, consistent I submit with Holmes' testimony at trial. He asked Carroll Ingram if he thought the call was taped. He advised Carroll Ingram this was the only thing he was concerned about.

It's interesting about the taping question, it's possible Holmes only was interested in whether or not the telephone call was taped, and that's why he called Carroll Ingram. Bud Holmes testified Judge Nixon asked him to find out if the call was taped soon after, almost immediately after the investigation began in April, 1984. What does Judge Nixon talk to Carroll Ingram about immediately after the investigation was underway? Talked to him about the investigation, and said, call may be taped. It is Judge Nixon who had taping on his mind through his conversation with Carroll Ingram. You can infer from that, if he was concerned about the tape recorded conversation with Carroll Ingram, he would have been vitally concerned with whether or not there was a tape of his call from the farm.

I submit to you Carroll Ingram is of crucial importance. He corroborates Bud Holmes' testimony. He testifies that Judge Nixon directly from his own mouth told him that he had contact with the Drew Fairchild case through Bud Holmes and that he reported his contact back to Wiley Fairchild. And he gives crucial information as to the timing. He says Wiley told him about the call before the case was passed to the file.

Carroll Ingram, Bud Holmes, and Wiley Fairchild are different people, many instances don't like each other, but in terms of these questions, they fit together nicely. All three put the call before the case was passed to files. All three, Carroll, have Judge Nixon going to Bud Holmes and, on behalf of Wiley Fairchild in connection with Drew's case, all three have Judge Nixon getting back to Wiley Fairchild with positive news about the case. All three have the call in 1982, not 1983.

When it comes to Ingram, the truth of the matter is, I submit, that he gives Judge Nixon very favorable testimony on Count I, the gratuity count, but I submit based on the evidence, that he buries Judge Nixon on the perjury count.

There was other evidence, oil experts testifying, government expert, geologist, he says the wells were worth 53 thousand and some change in 1980, about twenty thousand dollars less, one year before, consistent with Wiley Fairchild's testimony that the wells were worth more in 1982 than 1981, consistent with -- the purpose of the backdating was to get the values lower so it would not look like a sweetheart deal. Defense expert testified, a lawyer, made no scientific study, simply said in my opinion fair market value, fair market value. I leave it to you to decide which expert was more persuasive.

Glenn White testified for the defense. I think the importance of Glenn White is that he testified that he wouldn't have passed the case to the file. He testified there was a great deal of news media each and every time there was any event in the Drew Fairchild case. Any one of those news events could have provoked Wiley Fairchild.

Katie Matison testified. I think her testimony was significant. She said Bud Holmes was obviously concealing something he knew about the case, he was covering up something, now for whom I do know know. This was a defense witness who worked in Bud Holmes' office, who had the perception that Bud Holmes was covering something up. What was there to cover up in the Drew Fairchild case by Bud Holmes if it was not his connection with Judge Nixon?

Judge Nixon testified. Judge Nixon is an extraordinarily bright man, he's an extraordinarily smooth man. I submit his testimony was carefully crafted, carefully rehearsed, it blended in with Wiley Fairchild when it could, parted way with Wiley when he had to; he blended in with Carroll Ingram when he could, parted ways when Judge Nixon said he called me and told me that he had had contact with Bud Holmes about the case.

He also testified that he was a man in dire need of investments. I submit that people in dire need of investments all should have a net worth of almost three quarters of a million dollars. He presented a picture of an arms length transaction with Wiley Fairchild with a transaction in which the only way he would make money would be for money to come out of Wiley's Fairchild pocket. He was relying on a man he did not know to put him in a good investment. The only way it would have been a good investment, if Wiley conveyed property to Judge Nixon that was more valuable than what Wiley Fairchild was receiving. Is that an arms length transaction?

Let's get to the real heart of Judge Nixon's testimony and find out whether or not it makes any sense. He said he stopped by Wiley Fairchild's office, Wiley Fairchild makes this shocking allegation that his friend Bud Holmes and perhaps Carroll Ingram were blackmailing him, and that there was another defendant or another smuggler who had not been prosecuted. At that point Judge Nixon did not know Wiley Fairchild well, one or two meetings, handful of telephone calls, perhaps his entire life he had an hour's worth of contact with Wiley Fairchild. Yet Judge Nixon came to the conclusion that these allegations were nonsense? How did he come to that conclusion?

Here was a man who he trusted enough to put his money with; he was a man who he thought was sophisticated enough in a very sophisticated business to seek to make more investments, and yet the man makes an allegation, the Judge doesn't pursue it any further, comes to the conclusion it's nonsense. Is it not more reasonable to conclude that Judge Nixon interpreted what Wiley Fairchild was saying as a request to go to Bud Holmes and take care of Drew's case?

Of course he did go to Bud Holmes immediately following that. Was it just a coincidence, as Judge Nixon testified, that he had already set up meeting with this alleged blackmailer? He testified he went out to Bud's, had no intention of talking about the blackmail, but it just sort of slipped out, and that was that. Is it not more reasonable to conclude that he went directly to Bud Holmes to talk about Drew's case?

Judge Nixon testified that after he told Bud about it, Bud wanted to talk to him about it, but he didn't want to hear. Does that make any sense? He receives this charge that his close friend Bud Holmes is a blackmailer. For whatever reason it slips out, he tells Bud; Bud -- what's the natural reaction of Bud? Someone calls Bud a blackmailer wouldn't there normally be a response? Wouldn't a close friend want to hear that response? But Judge Nixon, no, he didn't want to hear that response, because Judge Nixon said Bud can talk for an hour. There was times when there was an effort to portray Bud as the village idiot. You make a decision whether or not that's accurate. You also make a decision whether or not it's reasonable for a man to say to his close friend Wiley Fairchild says you're a blackmailer and then refuse to listen to the man's response. Is it not far more likely and far more reasonable that following Judge Nixon's first conversation with Bud Holmes there in fact ensued a discussion about Drew's case wherein Bud Holmes brought Judge Nixon up to speed on what had happened in the case?

Then, of course, there is the call. Who had a motivation to call Wiley Fairchild? Well, who had the oil deals? Who wanted more oil deals? Who was to get back to Wiley Fairchild? I submit the evidence is consistent with Wiley Fairchild's version. I submit that's what reasonably makes sense. Judge Nixon's assured by Bud Holmes nothing untoward would happen to Drew and Judge Nixon got back to Wiley and gave him the information. I submit if you conclude that Judge Nixon on the witness stand did not tell the truth about these events, as I believe you must, using the government's evidence and your good common sense, you must conclude that there is but one reason for that, and that is the truth from the witness stand from Judge Nixon would make him a perjurer in his grand jury testimony.

There is something interesting about Judge Nixon's version of Bud's reaction to his information that he was alleged to be a blackmailer. According to Judge Nixon Bud Holmes said the SOB is paranoid, he thinks everyone is after his money. Who was after Wiley Fairchild's money in this case?

Judge Nixon testified that he was disgusted by the fact that Bud called Wiley Fairchild. I submit you can conclude that Judge Nixon was not disgusted but he was embarrassed by it. I submit he knew that it was wholly inappropriate for a federal judge to be seeking to help a smuggler in any way because of an economic relationship he had with the smuggler's father. What was he doing when he was putting in a word for Wiley Fairchild's son? He was helping an alleged smuggler -- not an alleged smuggler any more, a convicted smuggler who he had never met, about whom he knew nothing, about a case he knew nothing.

It was for that reason Judge Nixon did not disclose the true contents of the call in April, 1984 during an interview; he did not disclose the call to his attorney prior to going into the grand jury; and he did not disclose it in the grand jury. Even after there was a specific question posed to him about what was going on in his meetings with Wiley Fairchild, he never volunteered the true nature of the telephone call after the grand jury, even though he learned that it was of great moment in the investigation.

It was for that reason that he met with Holmes in his car in the dark in the parking lot outside this courthouse in February of 1985. If there was not something going on about that phone call involving Judge Nixon, would he in a million years have submitted to that? Why did he not simply say, Bud Holmes, you want to see me, you come to my chambers, I have a jury out. You want to talk to me about something you can come to my office, but instead they go to his car, they sit in the dark and they discuss the phone call. He was embarrassed by the phone call, and he made a decision not to testify truthfully about the phone call, and I submit to you he's not testified about it truthfully to this day.

You may conclude from the evidence that Judge Nixon sought a favorable business relationship with Wiley Fairchild. You can conclude from the evidence that he reached out to the man that he never knew -- incidentally, something he denies doing -- and he structured a deal with Wiley Fairchild that if successful would only take money out of Wiley Fairchild's pocket. No negotiations, no discussions, only met the man with whom he was conducting the business after the deal was consumated. The backdating, no legal effect, had no economic effect. Had one reason only, and that was for appearance's sake. Judge Nixon puts his name on a document that had a false date, he was so eager to enter into this deal he agreed to pay interest for a year when he didn't have to and he was not interested for that year until this investigation got underway.

The consideration, was it appropriate? I refer you back to Wiley Fairchild's statement that in this case he didn't want it to look like a hundred per cent gift. Help? Help if I can, I'll tell you if I can't. What was he talking about? Was he not talking about something in his official capacity? To this day, over 50 thousand dollars worth of profit to Judge Nixon, and the sum grows each and every month.

The question for you, if Joe Blow on the street called Wiley Fairchild, I'd like a deal, is there any way in the world Joe Blow would get such a deal? Or was this a deal sought by a judge, given only because he was a judge, and looking to the Judge for official favors?

There are separate perjury charges in this case. Count II talks about -- why don't I get it so I'm precise. Count II the question was posed, "Did Wiley Fairchild ever discuss the case with you?" Judge Nixon, "No, not to the best of my recollection. I think I would recall that if he had, believe me, but I don't recall that he ever did." What was Wiley Fairchild talking to him about in his office if it was not the Drew Fairchild case?

"Did Wiley Fairchild ever ask you to do anything vis-a-vis his son's case?"

"Absolutely not." Wiley Fairchild testified he did not make a specific request of Judge Nixon. Judge Nixon told Ingram and told Holmes, however, that Wiley Fairchild did.

Count III. "Did he ever --" excuse me, Bud Holmes "ever discuss the Drew Fairchild case with you?

"No, not to the best of my recollection. I think I would recall if he had."

What were they doing and what were they talking about at the farm? And why, if he didn't discuss the Drew Fairchild case, did he so say to Carroll Ingram?

Count IV, Judge Nixon makes a statement after his questions. He was asked if he had anything else to say. "Now, I have had nothing whatsoever officially or unofficially to do with the Drew Fairchild criminal case in federal court or state court." I submit to you, Wiley Fairchild, Bud Holmes and Carroll Ingram all put the lie to that. "But I never handled any part of it, never had a thing to do with it at all, never talked to anyone, state or federal, prosecutor or judge, in any way to influence anybody with respect to this case."

Again, consider Wiley Fairchild, consider Carroll Ingram, consider Bud Holmes. All three come together to establish that Judge Nixon was attempting to hide the phone call from the grand jury. All three at this point in time have no motive to lie, have nothing at stake, whereas Judge Nixon has everything at stake.

I told you in the opening that this case has two tracks, the oil transaction, Drew Fairchild's case. Skip Jarvis, and unquestionably for a period of time the government believed that there may be a connection between those two tracks surrounding the initiation of this transaction. I think at this point it's clear that there is no such connection at that point. But I submit to you that the tracks come together later, and they come together when Wiley Fairchild wanted some help after he became very dissatisfied with the way the case was being handled. I submit to you the tracks come together when Judge Nixon puts in the good word for Wiley Fairchild with Bud Holmes.

I think it's agreed by everyone in this courthouse that justice and only justice is to be the result of every and all criminal cases. The path of justice is truth. I submit to you that the truth in this case is that the defendant used his office to dip into Wiley Fairchild's oil and gas poftfolio. I submit to you he sought to further ingratiate himself with Wiley Fairchild and he sought to do it by putting in a good word with Bud Holmes about Drew's case. I submit he did not want this assistance to see the light of day. I submit he testified untruthfully about his relationship with the Drew Fairchild case in the federal grand jury. And finally I submit to you, ladies and gentlemen, justice in this case will come with a verdict of guilty.

Thank you.

BY THE COURT:

Members of the jury, let's take a short recess, and then we will resume.

(Recess.)

THE COURT: Mr. Weingarten?

BY MR. WEINGARTEN:

Ladies and gentlemen of the jury, let's start out this way. Saying something louder and louder and louder doesn't make it right. Saying something over and over and over again doesn't make it right. Being incredibly and unfairly abusive doesn't make the abuse right. Pointing your finger over and over and over again doesn't make that right.

Mr. Fawer had a lot to say, and I submit to you, ladies and gentlemen, a lot of what he said was wrong. What was the government to do when Skip Jarvis called in November, 1983? Were we to say, well, Michael Fawer from New Orleans, former prosecutor from the Department of Justice, might not like him if he ever hits the witness stand, so we're not going to listen to what he has to say?

Skip Jarvis was a citizen. Skip Jarvis is not an animal the way Mr. Fawer makes him out. He's an individual who thought he was doing right. He made an allegation to the FBI. The allegation was a serious one. To castigate the FBI because they looked into what Skip Jarvis has to say I submit is a gross injustice.

Skip Jarvis was given a tape recorder, said go see what Wiley Fairchild has to say. And he did. Wiley Fairchild, fair enough, did not implicate Judge Nixon in wrongdoing on that first occasion, but sure enough he raised a lot of serious allegations. And what was the FBI to do at that time? Were they to say, oh, my goodness, Michael Fawer may scream and yell later on, he may castigate the FBI later on if this doesn't turn out exactly the way Skip Jarvis first alleged? No, I don't think that's what they should have done.

I think they should have done exactly what they did, pursue the investigation, particularly since they saw a situation in 1984 wherein Drew Fairchild, the son of an oil millionaire, had been implicated in a smuggling four years before and had never been sentenced.

What should the FBI -- what should they have done, throw their hands up, oh, my goodness, it's not working out quite as we expected, let's close shop? Instead they look at Wiley Fairchild's conduct, and a conclusion was reached that Wiley Fairchild paid public officials for favors. And Wiley Fairchild was prosecuted, and sname on the United States for taking a guilty plea. He had a lawyer. What did his lawyer tell him? His lawyer told him he was guilty as hell.

You know when you plead guilty in federal court, a judge has to take the plea. A United States judge has to accept the plea, and the United States Judge did, and the United States of America in the form of the prosecutor did recommend probation. And the United States District Court judge who sentenced Wiley Fairchild didn't accept the recommendation of the prosecutor and imposed a prison sentence.

Shame on the United States for prosecuting a man for paying public officials for favors.

What was the District Court judge who sentenced him to do? Should he be ashamed, too? I guess according to Mr. Fawer, that's right.

And what should the United States have done when Wiley Fairchild came forward and said there is some information that I have not provided, and the information is that I sought the assistance of Judge Nixon to help my son. And Judge Nixon came by, and the assistance was forthcoming. What should the United States have done at that time? Should we have gotten under the table? Run away? Should we have said perhaps a very talented, very emotional and very abusive lawyer from New Orleans might not like it? So we're going to bury our heads? No, that's not what we did. Not what we did at all.

We listened to what Fairchild had to say. Wiley Fairchild in addition provided information that he received from a friend of his, Dr. Shows. He never represented on the stand here, he never represented in the grand jury, he never, never represented to the FBI that he had personal knowledge of misconduct by Judge Walter Nixon in the connection of the Dr. Shows case. What were we supposed to do? Not listen to it? Was that unworthy, you're not supposed to listen to information that citizens provide? How are you supposed to separate the wheat from the chaf if you don't listen? You have to make a determination. You need the information.

Was there something inappropriate that Bud Holmes was given an opportunity to explain in the grand jury, to explain to the grand jury, to the grand jurors what the facts were in the Dr. Shows case? Was it a crime for the United States to elicit every bit of information Wiley Fairchild has? Has anybody been prosecuted by the grand jury concerning Dr. Shows? It's a red herring, and he knows it.

Carroll Ingram had a problem with recalling the circumstances of the backdating when he first appeared in the grand jury. Contacted the Department of Justice in Washington to clarify the misunderstanding. And he came to Washington. And in the course of the discussions he provided information that corroborated Wiley Fairchild on Judge Nixon's assistance to Fairchild in the Drew Fairchild case. What was the United States to do at that point? Were we to say, Michael Fawer might not like this? Michael Fawer may have criticism down the road if we pursue this any further?

No, no, I don't think that would be the appropriate course. So we listened to what Ingram had to say, came to the conclusion that it matched Fairchild.

Does Ingram date the phone call? Probably the most significant piece of evidence in this case is Ingram's testimony that Mr. Fawer conveniently neglected to mention in his very impassioned oration. Fairchild advised Ingram about the phone call. Ingram's testimony, unshaken by Mr. Fawer, was that he was so advised in the fall of 1982. On this point there is only two possibilities: either Ingram is lying or the Judge is.

Bud Holmes, prosecuted by the United States. His interpretation, of course, what I said to him, give us the judge you don't have to be indicted. I submit to you, ladies and gentlemen, actions speak louder than words. He cooperated with the United States after his indictment. Was everything dismissed? No. He plead guilty to an information, an information charging contempt, an information calling for potential of sentence of one year imprisonment, which he has received. Is there something inappropriate about prosecuting Bud Holmes, convicting him, getting a sentence of one year and securing his cooperation?

Yeah, we were curious as to what Bud Holmes was going to have to say about that phone call. Because at that point, Wiley Fairchild had advised us that Judge Nixon helped him in Drew's case, and Carroll Ingram confirmed that there had been such a call, and yes, we were interested to see what Bud Holmes had to say about it.

Is that the crime? We plead guilty. But I submit to you, ladies and gentlemen, that the disposition in the Bud Holmes matter was entirely appropriate. One year prison sentence. Is he the dog, the animal that Michael Fawer makes him out to be? Made some bad judgments, can't come into a court of law, can't come into a grand jury and tell an untruth. That's prosecutable under the law.

Is he totally unworthy of belief? I leave that to you. Search your gut. Did the man attempt to tell the truth in this courthouse?

You know what is the biggest factor here is Michael Fawer's own words. He talks repeatedly about leverage, he talks repeatedly about the justification in the Drew Fairchild case, why Drew wasn't sentenced, the government or the state wanted leverage, if he ever testified they would have leverage, a hammer that they could pound him with if he lied.

What hammer does the United States have over Wiley Fairchild at this time? We gave that lever up. We could have deferred that sentence. We could have kept him unsentenced until he testified.

Was Bud Holmes sentenced? Yeah, Bud Holmes was sentenced. What leverage did the United States have over Bud Holmes. I'll tell you what leverage we had, we have the leverage every prosecting attorney has for perjury. The same with Wiley Fairchild. But that's the only leverage. We gave up the leverage. We had no leverage. The leverage Mr. Fawer has repeatedly, repeatedly mentioned.

We make no apologies whatever for the conduct of this investigation. Was it a witch hunt? Was it a witch hunt to get a judge? I submit, no, ladies and gentlemen. I submit we would have been remiss had we not moved heaven and earth to honestly resolve the allegations of perjury in this case. And that's what this case is all about. Allegations that a United States judge may have violated the oath to suit his own purposes shouldn't -- should we have ignored it? Or should we have pursued it as vigorously and as effectively as we possibly could? I submit we took the right course. And I submit that to the greater glory of our judicial system, the results are in; the results are the evidence. And the results I submit are unfavorable to Judge Nixon.

Mr. Fawer makes a great deal, points his finger, bangs his fist, prays to God, forgives people, doesn't forgive people, but he knows full well and you'll hear from Judge Meredith that any allegation of governmental misconduct in a case is to be resolved by the Judge. By Judge Meredith. Not for the jury. It's a distraction from the real issue in this case, and the real issue is are three people lying, Fairchild, Ingram and Holmes, or is Judge Nixon? What you think, what the government did and what the government didn't do, did the government search here, did the government search there, he knows full well that if there was a substantial allegation of governmental misconduct he could have raised it with the Court. If it was well founded, he would have gotten relief, and the fact that we are here, the fact that this trial has gone on, an inference can arise from that fact, and the fact is, the inference is there was no misconduct whatever.

Mr. Fawer uses a straw man. The straw man is the connection between the Drew Fairchild case and the oil deal. Look at the indictment. Look at the charging language of the gratuity, you'll see that it is not charged, there is no charging language in the gratuity count making such a connection. Certainly when Skip Jarvis first made his allegation that was of interest to the United States. Certainly, no denying that. You look at the indictment, you see if there is any connection at this point in time.

The connection comes later. The connection between the business interests of Wiley Fairchild and Judge Nixon and the Drew Fairchild case surely does come; it comes after the deal is initially cut, and it comes on the day of the call. Why wasn't Carroll Ingram prosecuted when he said he never discussed the Drew Fairchild case with Judge Nixon? Because he hadn't. Judge Nixon discussed with him the phone call. A far cry from a situation wherein the Judge goes from Wiley Fairchild to Bud Holmes with an assignment, the assignment's to put in a good word for with Bud. Absolutely apples and oranges.

Fair treatment for Judge Nixon? How do you compare it with the other witnesses? Wiley Fairchild testified in the grand jury, he was prosecuted. He went back into the grand jury after his guilty plea. Carroll Ingram testifies in the grand jury, seeks clarification, comes up to Washington, provides information, then he's put back in the grand jury. Bud Holmes, Bud Holmes had other problems. Bud Holmes was prosecuted on five separate counts of perjury, no analogy between Bud Holmes' situation and Judge Nixon.

Judge Nixon was on record three times about his involvement in the Drew Fairchild case, one in the interview, two in the grand jury, and three in his press release. That record is full and complete. It is your decision whether or not the record is true. And the record of course for you is the grand jury transcript. Was he given an opportunity to come back into the grand jury? I submit to you it is simply preposterous to argue Judge Nixon was not given an opportunity to give his version of the phone call. It is simply preposterous. He was represented by counsel throughout, counsel was in contact with the United States government, counsel came to the District of Columbia, he volunteered the first time. You heard the grand jury. It is preposterous to suggest that Judge Nixon would not have been welcome back into the grand jury a second, a third, a tenth or twentieth time to give any information that he wanted.

Moreover, Judge Nixon is a judge for many, many years. He knows how the Department of Justice works. It is preposterous to suggest he couldn't pick up the phone at any moment at all and speak to anybody he wanted in the Department of Justice, to say anything he wanted to about anything. To suggest that he was sandbagged, to suggest that he was treated improperly or unfairly in the grand jury is preposterous.

Mr. Fawer makes reference to the April interview. I make one request. When you're deliberating, consider that interview. Take a look at that transcript. Listen to the tape. Make a decision. Yes, we came down and we interviewed the Judge, and yes the Judge agreed to have it taped. I beg of you, consider that interview. Were we fair to Judge Nixon, A; B, was Judge Nixon advised that one of the things we were looking for was the mishandling of the Drew Fairchild case? Was it clear from my words that we were interested in Bud Holmes? Was it clear from my words that we were interested in Wiley Fairchild? Was it clear from my words that we were asking him about any information he had about the handling of that case?

Please come to a conclusion, whether or not it would have been entirely reasonable for him to have offered up at that time his version of the blackmail allegation had that version been true. And see for yourself whether or not Judge Nixon tells the truth during that interview about a number of things: His relationship with Bud, Wiley and the case, and in addition the oil deal. See if he tells the Department of Justice representatives the truth about that oil transaction.

If you do nothing else when you deliberate, please take a careful review of the April interview. Because that's the time when Judge Nixon is not rehearsed, that's a time when he's giving spontaneous answers. Come to your own conclusions, whether or not it would have been reasonable for him to have provided information about the phone call and the blackmail allegations, had it been as he recites it.

Look at some of these, not exhibits, but -- Mr. Fawer doesn't want me to look at the little charts.

MR. FAWER: You can have the charts. You have them in the transcript. Know the exact portion, 941, 967, 968, 640, 641. Transcript of it right here.

BY MR. WEINGARTEN:

Mr. Holmes testified, of course, at this trial. Mr. Fawer cuts out a little snippet of his testimony and puts it on the board, said Bud Holmes said I never discussed the Drew Fairchild case, you have to find Judge Nixon not guilty. Mr. Fawer holds himself out as a fair, ethical attorney, points the finger at the government time and time again for our misconduct, our misleading, our subborning perjury. I submit to you, he neglected to mention on the next page, Bud Holmes' next words in his testimony. Let's see what Mr. Fawer first said. "Just listen to my question. At no time, isn't it a fact at no time, including that evening, whenever it was, you never discussed the case with the Judge?

what Mr. Fawer was trying to elicit was not true.

We concede, we conceded from the outset, we concede now, we can't give a specific date for that phone call. I submit to you, ladies and gentlemen, the question in this case is whether or not it took place before the case was passed to files or whether or not it took place after the case was passed to files. He stakes his case on the fact it took place after, we stake our case on the fact it went before. Why can't we date it? We can't date it because it was not a tremendous significant event to Bud Holmes, and because Wiley Fairchild is a 75 year old man, and because it's natural and normal for a phone call four years ago to be difficult to place. I mean just think about it.

Think about four years ago, let's say you get a phone call, hypothetically the phone call is from a distant relative you haven't seen in a number of years. The relative says hi, start talking about family news. Some of the news is startling. Let's say the relative is in Europe, then later the relative visits you. Is it not imminently reasonable that you wouldn't be able to date the phone call, specifically, and perhaps if there were more than one person in the family you would have a different recollection as to when the phone call was, but is it not also reasonable, you would know which took place first, the phone call or the visit, particularly if there was a causal connection between the two? I submit that's

"That's correct." Mr. Fawer was all, oh, you got to find the judge not guilty of Count II. Look at it. He neglects to mention Bud Holmes' next statement, "outside of what I've testified to --" that's the only discussion. Is that fair to leave that impression with the jury Bud Holmes said I never discussed? He's saying outside the discussion we had at my farm I've never discussed the Drew Fairchild case. Of course the epitomy of fair play, Michael Fawer, didn't let you know that.

Then, of course, he talks about Wiley and how his brilliant cross-examination that afternoon he got Wiley to say, my God, must have been after the case was passed to files, because for the first time I have laid out the scenario step by step. I don't recall if you recall, Mr. Fawer was strutting like a crow around the courtroom, Wiley Fairchild was exhausted, yawning, Mr. Fawer had scored a great victory, but the old man wouldn't give in. Immediately thereafter, and about twelve occasions he told Mr. Fawer, "no, I'm sorry. Not right. The case was passed to the file after the phone call." He doesn't leave that on his chart. Of course it's not convenient, and the correct verdict is not guilty because of his chart doesn't follow from that. Fairchild wouldn't give in even to the great Michael Fawer. The old man is too tough, he threw him for a big loss, and he wouldn't yield.

Why wouldn't he yield? He wouldn't yield because exactly what's happened here.

Bud Holmes says May 14th could well be the day. He never fixes May 14th as the definite date of the phone call because he couldn't. Whether or not it took place on May 14th, I'm not sure. Bringing in someone who saw a fight at Bonnie and Clyde's or bringing in someone who even saw Judge Nixon at Bonnie and Clyde's would not fix the phone call on May 14th. The point is whether or not the phone call took place before the case was passed to files, and three witnesses, when all is said and done, say yes.

Mr. Fawer made a lot of points, some were good. One that was not so good in my view is the McMullan-Bud tape. What significance at all is there in Bud Holmes having a conversation with McMullan two or three years after the events, and him shooting his mouth about a deal taking place before? Is it not possible a year elapsed between the passage of the case to files from the time of the plea? Did he have a calendar in front of him? Was there any significance at all to that conversation? He made some good points in his closing argument; I submit that is not one of them.

Judge Nixon testified to an interesting point and Mr. Fawer emphasized it. He said that in 79, he talked to Holmes about Wiley Fairchild. Wiley Fairchild spoke about two reputations -- Holmes speaks about two reputations. One he is an astute businessman; two, he makes political contributions.

Why in the world would Judge Nixon recall Wiley Fairchild had a reputation for making contributions? It was -- was this an oil and gas deal, or was this a contribution? Let's face it, if Judge Nixon staked his reputation, or staked his investment on Wiley's reputation for making money, it would have been to Wiley Fairchild's interest to take the ninety-five hundred dollars and give Judge Nixon a dry hole, stick the money in his pocket. That would be the end of that. Maybe the reputation he was interested in was his reputation as a contributor.

Fairchild's profit, two hundred thousand, two hundred thousand per cent, the point is Fairchild is a purchaser of speculative property and the property sometimes bears fruit. He's not a buyer and a seller. What would his profit have been if he held on to that property? No matter how you slice the pie in this case, Wiley Fairchild is not anything other than a speculator. He buys oil and gas property, he holds onto it, he hopes it matures into property that's producing a great deal of income. For the deal to be successful for Judge Nixon, there necessarily would have had to have been a diminution of Wiley Fairchild's money. It would have come from Wiley Fairchild and given to Judge Nixon.

Judge Nixon was relying entirely on a practicing attorney putting him into a good deal that would have meant money; what conclusions can you come to? He was looking for a contribution, the only basis for looking at him is his status.

What else did Judge Nixon have to offer? Was Wiley interested in his ninety-five hundred dollars? His testimony is he had no idea about it.

Is it a February 25th, 1981 deal or is it a February 25, 1980 deal? Well, on the financial disclosure statement says 81. On the deeds themselves it says 80. You can't have it both ways. There is something wrong somewhere, and why does it say, here's an interesting point, why did it say February 25, 1981 on the report filed by Judge Nixon in 1982? Where did he get that date from and where did Judge Nixon get February 25, 1981 to put on the forms? Think about that for two seconds. Evidence is Skip Jarvis prepared those dates, 2-25-81, sent them down to Ingram, sends them back, says backdate them. Backdated deeds are signed by Judge Nixon. This 1982 form Judge Nixon says 2-25-81. Where does that document come from? Is it not proof crystal clear that he definitely knew there was a one year backdating? If he came to that conclusion, I again ask you to look in the April 1984 interview that we conducted, and see what he has to say about that.

Other oil deals? Yeah, Judge Nixon had other deals, other legitimate deals; in those deals he loses money. When he turns to Wiley Fairchild, perfect stranger, a man known to make contributions, that one pays off.

Mr. Fawer disputes the fact that there was publicity in 1982. You recall him putting up a witness named Glenn White, present DA. Do you recall me asking him about that question?

"Question: Is it fair to say the notoriety was caused by intense media?

"They were there whenever they did anything, with exception of this order." You may recall Glenn White was talking about the order passing the case to the file.

"Is it fair to say when there was a continuance the media was there and the media reported it?

"Yes, they were there. I know on one occasion when Drew had to have back surgery they were there filming him.

"Is it fair to say a TV station in particular had a great interest in the case?

"WDAM.

"Is it fair to say every time there was a legal proceeding in court involving Drew's case, DAM was there?

"I would, to the best of my knowledge they seemed to be there, yes."

Talking about events in 1982. I'm sure Mr. Fawer is not attempting to mislead you when he said nothing was going on in 1982 and there was no publicity.

Just picture it, old Wiley Fairchild having his little bottle, 6 o'clock at night watching TV, Drew Fairchild, pictures of him coming in with his back problem. Would that have upset the old man?

Was Wiley Fairchild ever anchored in his testimony to the Bob Royals' visit? Couple answers. First of all, Bob Royals visited the prison to his friend Joe Crone in May of 1982. Besides all that, Wiley testified there were several occasions when he had contact with Royals about money. Even more than that, Wiley Fairchild's testimony at trial was that he did not recall the reason he sought the assistance of the Judge. He had plenty of beefs -- Mr. Fawer and I agree with that -- plenty of beefs in the handling of the Drew Fairchild case. Could have been Royals, could have been publicity, people were suggesting he had paid someone to prevent Drew going to jail, he can't recall.

Is Bud Holmes telling the truth? Complicated question; complicated guy. But I ask you to recall some testimony of Glenn White. Glenn White is his successor. Glenn White testified that after Bud was indicted Bud came by and talked to him. And he advised him, after he was indicted, before he's cut any deal with the government, he advised him that there was a connection between passing the case to the file and the phone call from the farm. Now what motive does Bud Holmes have to lie to Glenn White? What is his advantage to telling that to his colleague if it weren't true? Spontaneous statement by Bud Holmes explaining his difficulty with the federal government to his friends and colleagues.

Explanation being, yeah, there was a phone call, Judge Nixon to Wiley Fairchild in response thereto. At least part of my motivation for passing the case to the files was to do a favor for the Judge.

I think there is agreement between counsel, Carroll Ingram's testimony is crucial. Truth of the matter, Carroll Ingram, as I said before, helps the Judge a great deal on the gratuity; truth of the matter is he kills him on the perjury count. He testifies directly Judge Nixon advised him that Judge Nixon had had contact with Wiley Fairchild about Drew's case, Wiley Fairchild asked for assistance. Judge Nixon told Ingram directly he went to Bud Holmes pursuant to that request. Carroll Ingram has Judge Nixon telling him directly that Bud Holmes indicated that there would be a favorable response. Carroll Ingram has Judge Nixon telling him directly that he related that information back to Wiley Fairchild. There is no way on God's green earth that you can square Carroll Ingram's testimony with Judge Nixon's.

I said in my opening that this case turns on the oath. And I meant it, it was true in voir dire, you were put under an obligation to tell nothing but the truth. It has been true since the inception of this trial. Think what it would mean to the process, to our judicial process, if witnesses could get away with lying if the truth would disclose an impropriety or an embarrassment. The system simply could not function.

Simply stated, Judge Nixon should not have put in a good word for Wiley's son. By his acts in effect he was seeking to influence a state case through his friendship with his friend. It was wrong and he knows it was wrong when he testified in the grand jury. He chose nevertheless not to testify truthfully and not to disclose this embarrassing incident. It was a diasterous decision by an otherwise fine judge. It was a decision probably based more on pride than any corruption. But it was a decision that was knowingly and willfully made.

You, too, took an oath. Your oath was to do justice, no favor, no sympathy, no bias, no fear. The prestige of Judge Nixon's position, the power of his personality, must yield to the dictates of the law. There is only one verdict that will allow you to look yourselves square and say it was difficult, it was sad, it was painful, but it was right. That verdict is guilty.

Thank you.

THE COURT: We'll take a short recess.

(Recess.)

(Jury instructions not included.)

(Jury retires to deliberate at 3:57 p. m.)

(In chambers:)

MR. FAWER: Your Honor, we've already made as a part of the record any objections we had as to the charges that were excluded. I'm not sure, I may not be recalling correctly, but with respect to 27-C, perjury, one statement was the heading of it, which relates to two --

THE COURT: You object to that?

MR. FAWER: I don't remember if I did it on the record. If I did, that's fine; if not, I'm just objecting on the record that it was given. Other than that, there's nothing else, Judge.

For the record, the charge that I have just objected to has been marked Exhibit F, and been made a part of the record of objections in this case.

(Recess.)

(End of Volume 19.)

EXHIBIT
Respondent's
Exhibit 63

TELEPHONE CONVERSATION BETWEEN
JIM HALSTED AND BUD HOLMES
November 14, 1986

Operator: The number is 544-7030

Number is dialed.

Hello, this is Bud Holmes' office. Bud is not in right now, if you would like to leave a message, please leave one at the sound of the beep and leave your name, the date and the time you called, if not, he may be reached at two other numbers, which are (601) 545-1204, or (504) 643-9892. Thank you.

J: This is Jim Halsted. I am calling from Tampa, area code 813-664-7791 and I am writing an article on the entire Nixon thing and we'd talked about that before. And I've come to the conclusion, I don't think you or Nixon or Fairchild did anything wrong. Anyways,I want to talk to you about it and clarify a few points that are not clear in the transcript. If you don't want to talk to me, that's okay, but I just thought maybe we could get that straight. I'm trying to submit it to Mississippi College Law Review, so at least the attorneys in the state know what the hell happened. Okay, I'll try to call you at that other number they gave me. Bye.

Number is dialed, no answer.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 63

[illegible]

Other number is dialed, no answer.

J: You still there Bud?

B: Oh, yeah.

J: I've been working on this Nixon thing

B: Uh huh

J: about three months. I've got an article right now to the ABA Journal. Did you read that one last

B: Yeah. Somebody showed me a copy of it and I read it. I didn't study it, you know, I got, I read it though.

J: Well, it's on Jarvis. I wrote one back, it was so inaccurate, so wrong.

B: Jarvis -- that was so full of, pardon my grammar, but so full of shit it was unbelievable.

J: Well, I wrote the most caustic thing back that I could possibly write.

B: I can't believe but they, a sophisticated, oh hell, what you want to call it -- responsible publication such as that has the credibility it's supposed to have, would put something that inaccurate in the publication.

J: Well, that's essentially what I said and I backed it up with all the facts of trial, that you know, that I had while I took notes, and the fact that they had it under the Ethics Section,

B: Yeah

J: particularly when, you know, most of the stuff is not finished under appeal, and then they quoted Jarvis on his own opinion which contradicted the jury, it just

B: Well, the ______________ would be, if you'll take the Clarion Ledger account, that is ________ where Weingarten said that we now are convinced and know there was no ________________.

J: That's right. He said

B: He's the government. That's the government, that's not, uh, _____________, which totally blows up everything Jarvis alleged.

J: That's exactly right.

B: The government now says there was no ____________.

J: That's right, says there are no underlying wrongdoing. I've got one more for you I thought you'd be interested in. I was reading the transcripts of trial and in a closed session in the Judge's Chamber, Weingarten and Fawer were arguing about some kind of discovery and they are going back and forth and Weingarten says, I don't have to give you this, and Fawer says, he says, you mean I have to give you everything? And Fawer says, well there are certain things you have to give me. He says, well there are certain things we know that we have to give you. And you know what he says next?

B: What?

J: He says, for example, Petit Bois Island. We know Nixon didn't have anything to do with that now, should we give that to you?

B: Right.

J: Can you believe, all this publicity, all this stuff, the government now, in addition to conceding nothing, no illegal underhanded dealings with the bribe, they now concede that there was nothing wrong with Petit Bois Island. Now, have you read a word about that in the paper?

B: Oh nothing. Not only that, you know, I guess I told you this, on Petit Bois Island case, you know the government, uh excuse me, ______________, the government offered 2 1/2 million and Stocks and them offered to take 5 million. The government, the government and _________________ Nixon _________________ said why don't y'all split the _______________. _____________ said they would take it. The government indicated they would take it and __________ and the government _________________________ huge funds ________________________ money to buy ______________ or something out in California.

J: I don't believe it.

B: No, they just, you know how ____________________________.

J: Is that right? Yeah.

B: ______________________________ they just did not have the ______________ in that particular section up in Washington, but I mean it wasn't that ________________ ________________, it's just that they spent the money to purchase land out in California and they didn't have the funds to pay it with, so that's the reason they were dragging it around.

J: Oh my God!

B: And he had two things to go on, two different appraisals. He had no other choice.

J: Well, you know

B: But here's the thing, after ____________ Stocks and them offered the island back to the government ________ ____

J: You're kidding?

B: Oh no. Reid, I mean, Martin and Weingarten and everybody got ____________ said, tell us what you think about Petit Bois, what do you think ________________ I told them about this and Weingarten looked shocked to death.

J: Is that right?

B: He said, why did they offer to do that? and turned and looked around at Martin, and Ralph kind of hung his head, and said yeah, that's true. They all knew that, but they wanted us to pay the attorney fees and costs of litigation.

J: Which of course. ________________ reasonable.

B: __________________. It put them back where they were to begin with.

J: Well, you know when they called, remember when we were talking last time and you told me you thought that they originally thought some deal was between you and Stocks and Nixon because of the uh,

B: The Studebakers

J: Studebakers down in Clearwater and you said you cleared that up with them by taking a lie detector test?

B: Right.

J: What did you do? Did they just ask you in a lie detector test is there any connection here and you said no and you passed it?

B: What they, they tried to say that I failed the lie detector test.

J: Is that right?

B: But it wasn't ____________________ I ____________________ and then we got into it. I said well, where in the hell did I fail it? See, all that was nothing but a ploy to try to get me. And then they ______________, let me see if I can clarify something better for you. Bob Royals, you know Bob Royals?

J: Oh yeah. Oh yeah.

B: Bob Royals decided to talk to us ___________ ____________, Bud, the government was ready to make every kind of deal in the world with me if I would be wiling to say that the money Bill Porter was paid was used as a bribe ___________.

J: You're kidding?

B: Oh no. __________ this was the way all __________.

J: Is that right? __________ money went to Drew Porter, didn't it?

B: It went to Bill Porter.

J: I mean Bill Porter?

B: Yeah, hell I never thought ____________________.

J: Well, for heaven's sake. Huh! Well, I tell you what. I think they're chasing straw ducks, you know the two things that Nixon's convicted on, I'm not too sure your testimony convicts him on it.

B: ____________________. When I say, it was the most ignorant, and I promise you, I promise you, if on our trip to Cincinnati

J: Yeah.

B: He'd come up to me and said Bud, I've been working closely with Wiley Fairchild and he and his buddies are going to build a big building out there, we are working on it.

J: Right.

B: The other day while I was out there, ask me if I'd _____ and I said yeah, I know him casually. I got one of his children in my class, something like that, and said you know, I wish you'd put in a good word, if you have an opportunity, for my boy, I'd have said, Jim, what could the son-of-a-bitch want?

J: No kidding.

B: And, uh, they said hell, I don't know, Bud the last thing I want to do in my position is to say that I'm trying to influence you or get involved in a case I didn't ___________ and I don't want no ______________ about it and _____________________________. If this would have been a verbatim account of what occurred.

J: Well, you know, they say he lied when he said he sought the influence of Bud Holmes. Did he seek the influence of you?

B: No.

J: That's what I thought.

B: He got it strictly, strictly, strictly, it was strictly nothing but a conversation like this. Now, to say it had no influence on it would be a good statement,

J: Yeah.

B: just like if you'd asked me or if ________ Lucas had asked me, or Roland _________ had asked me, or Bill McClellan had asked me or if any preacher in Hattiesburg or any other citizen would have asked me, _______________ some influence.

J: Yeah, but you know, you think in terms of perjury Bud, Nixon has to know it had influence on you and

B: He had to know ___________________

J: And he did not seek to influence you.

B: To the contrary, he said he was not trying to influence me.

J: Okay, well, then

B: He would not want me to feel influenced, or

J: Okay, then when he says to the Grand Jury, I never sought the influence of Bud Holmes, he's telling the truth?

B: He's telling the truth.

J: Oh, for God's sake. Well, you know another thing that

B: Now, I did this, and like I told, I think my testimony is bad _____________. And I'm the one who wanted to look like a hero or make him look like a hero, but I'd have done it for Jim Halsted, I promise you. So, see the thing about it when I told them, goddamn, what do you want -- an apology?

J: Yeah.

B: I mean, I've already got a deal cut a year to go before you're not going to jail.

J: A wonderful deal.

B: You know, what do you, of course it's the same deal the government could give me.

J: The pits.

B: They knew that. ____________________

J: Yeah. You know, I don't think old man Fairchild understood that plea bargain.

B: He doesn't.

J: I mean, it just, the plea bargain with the continuance has just totally confused him as to what was going on with that kid.

B: I don't think that, see Carroll Ingram ____________ Bud ____________________ Bud _________________ I am not giving _________________ representative _____________ Bill Porter was very expensive cause Carroll Ingram ___________________, I think Drew would say well, hell Bill, if you don't like it, I'll go to Carroll. I don't know that, but that's the way I think it would go.

J: That's your guess. Yeah.

B: And I think Bill got mad, probably went and called up Carroll and _________ said that __________________- which would be typical of Bill and I don't know that for a fact, but I kind of suspect that occurred. Bill was very, ____ ____________________________________ call you today. _______________ said you've been talking to Rex and by God that son-of-a-bitch give you _____________________. This would be a typical Bill Porter reaction.

J: Well, you know, another thing that bugged me about this, those attorneys, when you and I discuss something. You know, we discuss a case, if you had a pending case before you or the D.A., and you know you cannot discuss that case under your ethics to anybody. Now, you can mention it, you can talk around it, but you can't discuss the facts of it without, you know, without breaching a certain amount of confidentiality. That's a very technical term for me, and Nixon is convicted on this when he says to the Grand Jury, I never discussed the case with Bud Holmes. From what I gathered, everything you said, I did not consider, and from a legal sense, from the point of view of a Judge and a prosecutor discussing the Drew Fairchild case.

B: He did not _______________ I think I've been over _______________ case __________________________________ ____ and going out there, I was with Wiley Fairchild, and

Wiley asked me did I want to __________ and I told him I ____ and he asked me if I would put in a good word for his boy. He said Bud, I don't know anything about it, and I don't even want ________________- about getting involved I guarantee what he said I have never asked anybody to do anything against their oath of office, ____ ________________________________ my oath of office and have always respected it, and ____________ ________________________ asked me ______________ ______________ and he said, what in the hell do you want, an apology? Goddamn, I've already cut a deal, ____________________________ Wiley know that. I said hell, I don't know, I've never talked to him about it. ____ you've got a deal. If you'd just wait for the damn pilot to come back so we can justify it is all ________ I'm not ____________________ the son-of-a-bitch __________________. I've done had a turn around on this board and I ain't gonna ______________________ __________________. It was dropped ______________ ____.

J: Well, in your mind, does that constitute discussing Drew Fairchild?

B: No, we never went into the facts, he never went into who, or where, he never, but quite frankly, I couldn't have told you.

J: Right, so, you know, that's the damn thing you had that ignorant jury up there. That

B: Yeah, ______________________________ Fawer blew it ________________

J: I agree.

B: All Fawer had to do was get up there and say, Mr. Holmes, let me ask you something. Judge Nixon -- was he a good judge? Oh yea. Have you ever known him to take a bribe of any kind? Oh, no sir. Do you know him about as good as anybody in the bar is what I was thinking of, was he a fair judge? Always. Was he fair to blacks? Definitely. Did he, probably take a lot of kidding, ribbing, but did he do the honorable, the right thing, that we __________________________________ segregate and when he went through all that _________ ______________________ procedure. Was he always fair to you? Oh yes, always. Do you know of one thing in your mind and in your heart that Judge Nixon has ever done that wasn't good for the United States? No sir. Do you know of one thing that he ever did that wasn't good for the people of Mississippi, black and white? No sir. Did Judge Nixon do anything wrong that you know of in ________________________? No sir. So if you were sitting on this jury, ________________________________

____

Weingarten. If you were sitting on this jury, do you know of anything -- he said you're the chief witness for the government. Well, I don't know. As the chief witness, put this jury in their faith, search your heart and your soul, if you convict a man of ________________

________________________________. That's all they had to think.

J: Two things that I would go further into two things. Isn't it true Mr. Holmes, that from your point of view, you and Walter Nixon never discussed the Drew Fairchild case?

B: I would have said as far as giving lip service, you know, we talked about it, but as far as discussing the facts, we did not discuss the facts. We talked about it no more than we would have talked about how President Reagan was doing on his arms control.

J: Right. But that's no discussion.

B: I would not call that a discussion.

J: And, did, from Walter Nixon's point of view, did he try to influence you?

B: He did not.

J: And Fawer never asked you these questions. He never asked the heart of Count 3 and 4, he never asked the questions.

B: Fawer was going to put on a show because Edwin Edwards lost ______________________________ see himself making all the great headlines all over the ____________________. He had decided because I had been convicted and pled guilty that I was such a bad, bad character, that my reputation was so notorious, that he would make me being the bad guy, and try me rather than Nixon, but that's the tactics.

J: You know, I talked to Nixon about this, and he really played you as the bad guy and I never thought you hurt him. And he played Ingram as such a sweetheart and lovable person that I thought Ingram was the most damaging person against him.

B: Well, he's the one ____________ that told, Ingram's the one that actually backdated all these deeds and this ________________________. He's the one they had for perjury. See, they never got me for perjury.

J: Well, that was amazing too, you know, all this stuff with Ingram. And they asked Ingram if he had ever discussed the Drew Fairchild case with Nixon and he said no, and finally they make this, finally they make this deal with him and make him a fact witness, or whatever they called him, it wasn't immunity, but it was the same thing as immunity as far as I was concerned and then Weingarten admits on closing statement that no, Ingram never discussed the Fairchild case with Nixon, but Nixon did discuss it with Holmes. And let me tell you _______ ________________________________ the stuff that comes out, Fairchild, I mean, Ingram is talking all the time about the Fairchild case. Where you guys just mentioned it in passing.

B: He came in the office one day and said, Bud, I'm asking you on behalf of an interested father, not as an attorney, he said, how's Drew's case. I'm not trying to

______________________________, how's Drew's case. What's the status. Wiley is naturally concerned and I said, well, we're just waiting on ______ ______________ the pilot to get back and we'll go ahead and get it over with. Hell, I was ready to go ahead ________________________ by now, you know, whatever the hell he wanted to do, it didn't matter to me.

J: This is such a farce. You'd think now that they have totally cleared him of Petit Bois, and they have totally cleared him of any kind of bribe or illegal gratuity, so that means everything they investigated the man for, he's not guilty of, and what they have convicted him for is lying apparently to cover up his own innocence.

B: Well, what they should have done, ____________________, if I were you, all of the ____________________, what I'd have done; I would have walked in there and I would have ______________________________________ here y'all starting out, this is ____________________________ conference Judge Nixon gave in each statement I never tried to influence ____________________ and he added ___________________________ one thing he left out ______, he did not put in there his ________________ gratuity __________________, bribe, property, anything of value subject whatsoever, has never done that. Now I left that out, because I thought that was what we were talking about. Now I did make this statement to the Grand Jury. I did make it and I do apologize for being so fired up and mad and showing _______________ every time I turn on the t.v. and newspapers, ______________________________. I said I was fighting mad and probably wasn't thinking clear. I left out this one statement in exchange for money, because that was everything they were saying when I took the bribe. Now I did leave that out, but as far as having a, if you want to call it a discussion, want to say talk, whatever play on words you want to have, I did, Wiley Fairchild asked me to put in a good word for Bud Holmes. I told Bud I did not want to do one thing against his oath of office. I didn't' even want to know the facts of the case, I didn't want to know anything about it, didn't discuss any of the facts, Bud told me the boy wasn't going to jail, they already had a plea bargain cut and I merely said, do you mind if I tell his father that

J: Just basically cause Wiley's so darn stupid that he doesn't realize what's already happened.

B: That's right. Mind if I tell his father? No I don't mind. Later on as _____________________ Bud Holmes might have suggested to go ahead and call Wiley, or I might have said, do you mind if I call him, but we did call him and we did, and those are the true facts.

J: There's nothing wrong with that.

B: Those are the facts.

J: And of course, Wiley's dealing with a couple of attorneys, he thinks are blackmailing him, he thinks Ingram may be blackmailing him, and, Porter, certainly thinks he's blackmailing him, so it's nice to get, you know, what really had happened and its in Wiley's interest, it's nice to get the fact of what's really going on from somebody you can trust.

B: We took ______________________________
screwed everybody that ______________________

J: Oh, I didn't know that.

B: Oh, yeah ___________________________

J: Is that right?

B: ____
Bud Holmes ____________________ fired everybody
____
____

J: That's what I figured.

B: I hired him cause my best friend, my best friend's
____________________, her father

J: Yeah, he took the stand.

B: And I took, I came down from ____________________
____
going over to New Orleans and go to work for Shell Oil
Company, ____________________ was my understanding,
but I gave him something to ____________________
and he never did ____________________ and I went to
the District Attorney's Office and ____________________
____________________- and then the
daughter of a good friend, the opening came up and I was
actually ____________________, they had
an opening, I brought her up there and I said __________
____________________ job ____________________
____________________ and so I brought her
up there at the District Attorney's office and I asked

when

J: She tried to be judge there for a while there wasn't she?

B: Magistrate.

J: Yeah, that's what I thought.

B: Hell, I was trying to help her get
and
my understanding

couldn't get along with one of the secretaries, one little girl

J: Suing everybody.

B: Well, anyway, took Wiley ______________ they asked for her.

J: To Wiley?

B: Oh, they were trying to tie in ____________________________ because we handled the case and didn't testify ________ ____.

J: The only thing in the world she contradicted you on, and God help me if I was Fawer, I would never have made this issue in the case, was that hair pulling thing. You know, I don't even know what that had to do with the case, cause we didn't even need to talk about dates, all Fawer had to do was bring out of you, was the fact from a lawyer's point of view, you didn't discuss the case, and that Nixon had said words that you eventually took as influence, but there is no way in God's earth that he would have known that it was influence, instead of attacking you all he could clear him through you, but he blew it, so they start talking about

B: ____

____

Fawer and ____

____

I'm going to tell the truth, the truth was that Nixon did not try to influence me ___________________________

____.

He had nothing to do with me having anything of that effect, I ____

and tried to make him look like a hero _______________.

If I would have let him take credit for something that

____

happened a long time before. He and I either discussed it or Walter Nixon ___________________________________.

J: Why couldn't he have done it that way? Why does he have to make a bad name for Bud Holmes?

B: I don't know, ____

____

J: You did, in spite of the attack.

B: I was waiting on ____________________________________

____

J: Well, you know, and if you had just calmed down and taken the counts one by one, he would have been okay. He never asked, he never even asked Nixon on the stand, did you discuss the case with Bud Holmes and what do you mean by discussing the case. That's a pretty technical term for a federal judge, isn't it? And Nixon would say yes, well, we had mentioned the case, but good God in terms of discussing the case, no, we didn't discuss the case. He never asked him that Bud, it was never addressed to Walter Nixon.

B: Fawer, Fawer ____________________ thinks __________ ____. You got one group, you got 12 people in that box ______ ____, you know.

J: I know.

B: And ______________________________ press conference about ________________________________.

J: ______________________________ the whole thing of putting the government on trial. Hell, he attacked, if you think he attacked you, you ought to see what he did to Reid Weingarten. He attacked him unmercifully and he didn't need to, you only do that when you lose. Hell, he had a winner. He had a winner of a case and he just didn't, he handled Wiley okay, he blew it on Ingram nd he blew it on you.

B: You know what I think? I think this is totally absolutely ______________________________, the government got down today on some little old Mickey Mouse ____, some little old who's who ___________________________ ____. If a third grader started this type junk, you would give them a whipping and send them home. People don't do like this. This is one straight ________________ out of wild rumors, people covering their own rear ends and the government over files, over a screwed up case called Petit Bois Island, and the government has the power and resources to do it and [END OF TAPE -- SIDE A] ________ _________________.

J: Uh huh, that's right.

B: What happened was, out of _______________________ Bud just a sheer, Jim I'd say just plain sheer pressure from friends and, man it was, of course, I think totally different now, now having been beaten down and dragged, kind of like a son-of-a-bitch, you know, right now if I said, Jim, you're going to have to walk to the planet Texas, it would just absolutely devastate me, but I'd find that once you get out in the street and started walking and a few cars stopped and gawked, you'd be, well, hell, that's Wiley, they'd turn their head and you'd just keep on walking, that's true, they don't pay no attention to you. Well, I guess that's the way it is, that before you went out there, you ________________

____

you'd be absolutely petrified.

J: Yeah, well, you know what else is so stupid?

B: And that's what happened when this thing started.

J: Yeah, you get so defensive.

B: Yeah, you said Goddamn, I ain't done nothing. But they gonna think God, that's gonna look terrible. My God that's going to look terrible. Here I got these deeds from Wiley and they are gonna say I talked to Bud Holmes and Wiley's boy didn't go, my God what ________________

____.

J: Bud, the whole idea of covering up the phone call, that was so stupid, the phone call didn't hurt anybody. There was no criminality in the phone call.

B: See, that was the only connection they could make. All Nixon, see what happened when the people get Nixon _____ __________________________ and ____________________________ in Ocean Springs.

J: Yeah, when the FIB went down there.

B: First, well, Weingarten _________________________________

____

____

anyway, when they walked in and talked to Nixon, this was, oh hell, probably about _______________ right at my mother's funeral, it happened right at the same identical time. And anyway, they walked in and asked about Wiley Fairchild. Do you know Wiley, blah, blah, blah, ____

____

blah, blah, blah, ____

influence ____.

Nixon got fighting mad about it.

J: Well, I would too.

B: He told them at that point that he never talked to anybody, never discussed it, you know, but I don't think Nixon knew what the hell, he thought it was some kind of judicial, as I gathered, he thought it was some kind of little old judiciary complaint through somebody that filed some kind of bullshit statement to that effect. He was just incensed. He called me and he said Bud, what kind of person is Wiley Fairchild. I said I don't know anything about it except for Carroll Ingram. What kind of person is Carroll Ingram? What in the hell is going on? Somebody is saying I told those sons-a-bitches I hadn't ever talked to nobody anywhere any time. And he said that about three or four, well, hell, I got the clear message then, you know, that he said he never talked to anybody, if he ain't talked to nobody, he ain't talked to nobody. So naturally, when he talked to me, I don't say nothing about it either. ____________

J: Oh, I know it, and the whole thinking of it, talk, there was nothing illegal about talking about it. You know, that's the crazy thing, there is no underlying criminality. There is nothing wrong.

B: ____

not said that to, you know. He had not said it and I did not realize, I would have said, you know, how long have y'all been, well, did he talk to you about it? Yeah, he did. He said Wiley had asked him to put in a good word for his boy, he told me not to do anything against my oath of office, would never ask me to do anything against my oath, would never interfere with it, don't do nothing because of me, please don't, I'm not asking you to. Yeah.

J: Then later on, you realize that Drew has already got it made and the old man is too stupid to realize that, so you got to call him up and make him, you know, give him credit for something that had already been done before.

B: And a few hours later, he said the old man, well, the old man is concerned, ________________________
____
____

Do you mind if I tell him what news you got? Naw, I don't care ________________________________.

J: God almighty! There is nothing wrong with that.

B: Nothing, nothing, nothing.

J: And then when he, with all that, when he tells the grand jury I never discussed the case with Bud Holmes, he is telling the truth. Lord, you guys didn't discuss the case.

B: We did not discuss it. From a jury's point of view, he should have said, gentlemen we made a mistake, he ______ have said in exchange for money or anything ____________ ______________________.

J: That's right, and he never sought _______ influence.

B: He did not. As a matter of fact, just the opposite. Of course, it did influence _________.

J: It did, but hell, you've got to have a men's right on that Bud, you know, when you commit perjury, you got to know what you are saying.

B: ____ goddamn ___________ ____________________ did I talk. And if you said Bud, by the way, oh so-and-so's up there, old boy that I got ______________________________, he got drugged the other night, he shot at an old boy that had been messing with his wife, and I think Glenn White's got it, I ain't trying to get you to do nothing, but if you will put in a good word with Glenn, I'd appreciate it. You can say, no, I wasn't trying to influence Bud, but the bare mentioning it to me has some influence.

J: Yeah, but

B: But that's what ______________________________
is for ____
not a God, you're not supposed to sit up there and make decisions totally -- you don't have blinders on.

J: Well, but then again, when he tells you Bud, you know, I don't want you to do anything and I don't want anything I said to affect you and later when a grand jury asks him did you seek to influence of Bud Holmes, from what he thinks, no.

B: That's, he did not in my mind, knowing him, knowing him the last thing he wanted to do was be obligated to me for doing something for him. If I'd done something for him, then he would have been obligated.

J: I follow you.

B: He never did anything, never let anybody do anything for him where he would have felt obligated because he is so sensitive of his position as a judge. He would let no one do anything, he was very careful about who his friends were, where he went, because he never wanted to feel like there was nay obligation owing to those people, with the exception of his social obligation.

J: Yeah, this is just a shame.

B: As long as people understood whatever happened, the only obligation there was a social obligation.

J: Yeah, I see what you mean.

B: He would not do anything he thought in anyway would ____ ____________________ him to have an obligation with him as judge. That's just -- I know how he thinks, the reason he was very careful about who he went with.

J; Right. So the poor bastard, when he goes before the grand jury and says that is telling the truth

B: He is telling the truth, uh, he is telling the truth in part -- not telling the truth in the mechanics of whether or not he talked with me.

J: Talked with you, yes, but he is charged with discussing the case with you.

B: I'm not arguing. What I'm saying is get ______________

____

J: Okay. You mean when you guys got into a conflict on the stand, when one of you -- well, actually, you all weren't that far apart, if you look at his testimony and your testimony. There was some stuff that he said you grabbed the phone first and you said he grabbed the phone first

B: We were drinking and I'll take his version.

J: And then he said, he admitted the fact that, you know, you talk about Drew Fairchild being a paranoid son-of-a-bitch

B: No, Wiley.

J: I mean Wiley being a paranoid son-of-a-bitch and that he'd already cut a deal. Nixon said that on the stand. I mean he really didn't -- the only thing and I don't know, you know, maybe he should have said it right, but the only thing he didn't say that you said was the deal about putting in a good word for his boy.

B: Now that, those, that ran deep in my mind. Wiley asked me if I would mind putting in a good word. I have no doubt but what Carroll Ingram, Carroll Ingram told Wiley; Wiley, one person's probably got more strokes with Bud Holmes than anybody I know of than Judge Nixon. You know, you ought to ask him, or suggest to him that he ought to help you with Drew.

J: Which is so bloody stupid because Drew had already been helped.

B: He had already been helped. You remember Wiley's testimony was that he sent -- did you ever read Wiley's grand jury testimony?

J: I was there during his trial testimony.

B: But you see, in his grand jury testimony, Wiley testified that one time he sent a ______________________ to Drew and gave me $10,000.00 and I took the $10,000.00 and went to Nixon and got Nixon to cut the case from 18 months to 6 months. Nixon and I ______________________
____

Well, the truth of the matter, of course, the government is sitting here with all the information.

J: Of course, this is a boldfaced lie.

B: Absolute lie. The truth of the matter was, I didn't try the case. I took the $10,000.00, the bulk of which went to Jim McIntyre who was the boy's attorney. __________

It wasn't even in front of Nixon, it was front of Dan Russell and Russell didn't cut it one inch. These are the facts and it's in the record.

J: And yet Weingarten lets the grand jury go on and believe this.

B: But he lets Wiley go tell them that. He lets Wiley tell them that I had Bill Porter killed because it was $270,000, $370,000 worth of credit life insurance on Bill Porter's life.

J: He said that? Wiley said that?

B: Yeah, Wiley said that.

J: Good God.

B: Yeah, and there wasn't a penny's worth of credit life on Bill Porter.

J: I tell you what, there's some -- I have some problems with the ethics, the way the government handled this case.

B: See, all of that is public record cause we filed all that as prosecutorial misconduct. That's of record.

____

____

goddamn ____

J: I am. I'm taking them off. You know, I hope to God my rebuttal article gets printed in the ABA Journal this month. They haven't said no to it yet and they should have said no already.

B: Well, it was, you know, my case is still on appeal.

J: I was wondering, what ever -- you got married since the last time we talked.

B: Yeah, I married ____________________________________.

J: I'm glad to hear you finally made it legal.

B: Well, she ____
____ I
told her I wanted to stop screwing around. ____________
____
____

J: When are you going to hear about your case?

B: Well, I'm already on the second trip __________________
____
and the appeal, _____________ should take about 4 weeks.

J: Lord, that should be time.

B: Well, October certainly will be, November what, 14th? I didn't' think
____

J: Did Weingarten argue the case with the government?

B: Oh yeah. You know, the legal __________________________
one count, I told them I would not ______________________
____

but I didn't think they should ______________________ ______________________ a damn thing against me.

J: I thought their case was weak against you.

B: Oh, they admitted later that ______________________ ______________________ but when the told me that they would let me plead contempt of court, there was no way, I thought I could be disbarred over contempt of court, because __________ ______________________ and I said okay, I'll go with that. I said has nobody ever gone to jail for contempt of court, and they said the likelihood that ______________________ and I told them I didn't want to take any time, and they said the most, you might go to Jackson for 30 days, like Wiley

J: Like Wiley did, yea.

B: ______________________ of course, by this damn time, I done got ______________________ and I told them about the goddamn phone call in the grand jury, because they [BREAK IN TAPE] and I came up, see at the time when I was getting ready to be settled -- the day of settlement, we looked up the fact that __________

____ said

____

because I was concerned about the amount of this goddamn fine, cause if they hit me with a $5 million fine, they said no, it won't be anything like that, it will be a small fine or you know a short time in jail, one of the two. I said okay. But they can't give you both. That damn day when old Carr hit me with both, I said, I'll be a son-of-a-bitch, they done changed the damn laws and I got back to Hattiesburg and everybody fell in the books, there was this Supreme Court case about ______________

____

so we jumped up and hauled ass, I went and got the certified check, I didn't want them to stop payment

____

I went and got a certified check and _______________

____ deposited

____ which in

my opinion satisfies that.

J: Yeah, I think the good legal thinking on that does satisfy it.

B: Now, but the government's side of it was they had 30 days before I was in Court and we ____________________

____during that 30 days, ______________________________ make attempts to ____

J: That's a pretty good question, what did they say?

B: Y'all go in and ______________________________. Now they come back and they _________________________ ______________________________ where they're saying bankers embezzled the money and take the money and put it in the stock market and make 5 million dollars off the stock market. Take the money back and pays the money back to the bank, the bank is not out any money and he made a 5 million dollar gain. There's no provisions for a fine. So they come back and say, well, there's a ______________________________ where you government, wait, the judge now can say when there are no provisions for a fine, he can still give them a fine anyway. They're trying to say they, under that Act, your judge had a right to fine you also. You see, I didn't plead to nothing.

J: No kidding. I don't know what that has to do with anything. That's their position? There's no way in God's earth, the Court can uphold that position, Bud.

B: But not only that, they tried to say well, there were more than two acts ________________

J: Why didn't they charge you with two acts?

B: ________________________________ Act 1 and Act 2.

J: No kidding.

B: The government wanted to make the proposition and they are the ones who came up with this misconduct from the grand jury to ____.

J: Yeah, no kidding.

B: But I told the, I said under no, they want the son-of-a-bitch settled more than I do. They knew if I walked that was going to be the end of the Petit Bois investigation.

J: That's right. Again, they have now conceded there is nothing wrong with Petit Bois.

B: That was where they were headed

J: At the time, yeah, yeah, I'm with you. Can you do me a favor? When I write this up and they put it in a rough draft, can I sent it by you to let you check it for accuracy here? I have to go to class right now. But you are saying everything I though you were going to say.

B: You know, for accuracy, I might want to tone some of it down

J: Oh, I'm not going to quote you, yeah, I'm just going to quote the basic legal propositions.

B: I'll tell you what needs to be changed and what I didn't know

J: What's that?

B: The government got this act that say, what you call inconsistent ________________________. How many people you think it takes to perjure?

J: Two, I think. Two witnesses against the guy for inconsistent.

B: That's what you really think?

J: That's what I kind of remember.

B: That goes to show you how ignorant I am. The government came out a few years ago. The history of it is might quote unquote, all the mafia and organized crime. They needed a tool for investigation. A tool for investigation said if we can get one person to make one statement that is different from what the witness said, now I can get the witness what they call false declaration.

J: You're kidding me.

B: Oh no, that is what they indicted me on. The didn't indict me on perjury.

J: Historically, it has always taken two for perjury.

B: Two ____________ it's got to be a subject matter.

J: Yeah, material subject matter. That's right.

B: It's got to be material to the investigation.

J: That's the way I've always known perjury.

B: Ok, how in the hell can my deal, when anybody be material to the ________________ investigation. How did my alleged dealings with Bill Burgin, now what's that go to do with Nixon?

J: Well, who in the hell is Bill Burgin?

B: That was a senator that Nixon convicted that came to me. I refused to represent him. He got bitter, got real bitter to the world, he cursed his friends, he cursed everybody. He cursed Nixon. I did not represent him. He offered me whatever kind of money I wanted, this that and the other. He's the one that kept telling me that money was no object, that he would give me whatever money, he just wanted me to influence Nixon, and blah, blah, blah, bullshit, and I wouldn't touch him with a 10-foot pole. You remember Ray Chatham?

J: Yeah.

B: Well, Ray Chatham and Bill Burgin, ________________________. When I represented Ray Chatham, when Ray had gotten caught and all that old stuff, stealing stuff, around Hattiesburg, Bill was an incentive to Ray while he was up there. Bill came down and represented Ray. Alright, Ray got set up by a black guy that goes out and puts on a body bug. This is how Ray got set up. I'm out there at the farm with Bill, Bill's still talking about, well who can I get to do ______________ Nixon and I was sitting there trying to be nice to this guy and about to go bananas and flip, ___________________________________

____

and I can take my shirt off, and say Bill, I don't have on any bug. Now you keep on the kind of shit you're doing, then I promise you some son-of-a-bitch is going to bug you and you are going to be in trouble, telling me that you don't have trouble, that you just want it thrown out before it gets anywhere. And I said, you are going to get in trouble, and he thanked me, he thanked me and told everybody, three or four of our friends, said man he straightened old Bill out, in fact he calmed him down more.

J: What's this have to do with Petit Bois Island?

B: Not one fucking thing.

J: What's this have to do with Drew Fairchild?

B: Nothing.

J: I don't understand.

B: See, what happens though, after Bill's trying to get out of the penitentiary, then see, they'll start coming to you and they'll say, give us some information and we'll cut your time. If you can clear up some stuff, we'll cut your time. ______________________________ and Bill Burgin goes in and tells ______________________________ one of the things I gathered is that well we talked to Bud Holmes, and Bud Holmes told me that it'd take a lot of money to fix it and I couldn't come up with the money. So then they ask the grand jury about old Bill Burgin, if they could get along, if anything happened, like ____ anything unusual, the grand jury's mad. And I says, well, yeah, sitting out here doing it, I told him just what I told you. They said isn't the truth of the matter you did that because you planned that future criminal conversation? I said no, _________________________. ___________________. I lied when I said I didn't plan that future criminal conversation.

J: Oh, for God's sake.

B: Oh, that's my indictment.

J: Tell them it should be thrown out on the face.

B: Well, that's what I thought too. Judge Carr did too. What I am saying is how can you indict the son-of-a-bitch because you are lying about something you plan to do in the future.

J: I don't know.

B: Well, anyway, that's

J: And it is utterly irrelevant to the

B: Well, not only that, but what happens is you go back and study the history of it and ______________________________

____

you will see

J: I want to, I want to, I think it's just incredible to hear something.

B: That the government now has something a hell of a lot better than the black hole.

J: The power of inconsistent statements and a perjury threat.

7

B: All they got to do right now if they want, if they think Jim Halsted had got some information they want? All they got to do is come to Hattiesburg, Mississippi, find Jim Halsted's enemy and I assume you got some somewhere.

J: You bet.

B: If you are a person that has ____________________, then bring that enemy before the grand jury to say, you know Jim Halsted? Yeah. Is he a poo-poo head? Did he call Miss USM a whore? Yeah. They would call you before them. Did you call Miss USM a whore? Never. Bingo.

J: Bingo, now they've got a perjury count.

B: Now, they call you in and say Mr. Halsted, we are going to indict you and you say, goddamn man, for what? And then you see everything that I have worked for, every position you got, everything going down the tube, right.

J: Oh yeah.

B: And you say for what, and they say well, we think you know something about, what's your indictment for, well, I'm not ______________________________, but they wouldn't tell me.

J: I don't believe it.

B: Oh no, I'm telling you, how about we think you know what we are looking for and willing to cooperate and you don't have to be indicted. Follow me?

J: I follow you.

B: You are much better off to take it down a, a, it would have been a lot less cruel to see, them to take you downstairs, take a goddamn rubber hose and you me to death. Knock out my teeth and let me lose an eye than put me through the last fucking three years.

J: I know it Bud. I'm so sorry.

B: Of course, I'm not feeling sorry for myself. What I'm saying is you going to incorporate a favor, ____________ ____

J: I'm so glad you told me that.

B: That is the arm that guy, an investigatory tool that

J: That only the grand jury has.

B: It's ____

J: Yeah, and you know that if they just did it through the FBI they'd never get that kind of charge because you can't have a false statement to the FBI.

B: That's correct.

J: It's when they put your ass under oath that all these kind of things get set up and the irony, the grand jury is supposed to be a shield between the citizens and over-zealous prosecution.

B: When you walk in _______________________________

____

Wiley Fairchild _________________________________,

I said goddamn, __________________________________

____

of course now I'm trying to get Wiley's testimony ______

____

____

J: Isn't that something?

B: Of course, Reid didn't want ______________________________, I'm sure they probably told them, let them have some fun out of the fellow. You know when he comes, then we are going to have some fun, I'm going to get him to ________ ____. Y'all watch him, boy he's going to jump and see everybody is in on the joke but me.

J: God! Bud, I'm gonna knock him. I'm gonna give 'em hell.

B: Well, let em say, I'll tell you straight out of hell, if I got to go, ____ I'd rather go down, _________________________ can they tell me, _______________________________________ how they treat you in prison.

J: Well, I don't think you are going to prison.

B: Well, I hope not.

J: You got to have a crazy, crazy, crazy court to call that that way.

B: Well, if anybody ever told me I would be indicted, I, if anybody ever told me Nixon would be indicted, I, much less convicted.

J: Well, what I'm hoping is you go no jail time and the Fifth Circuit throws Nixon out.

B: Well, they ought to throw it out, ______________________ ____ I'd say they ____ Nixon and he's a good man, a good judge, and what's happened to him, ____

J: Well, the irony, he didn't even commit perjury. I mean the things he didn't discuss the case with you and he didn't seek to influence you and you are the only guy there that knows it and you know it and he was convicted for it. That's just crazy.

B: See, that's the night I went over there and talked to him in the car, that's when I told him hell, judge come on and tell the, goddamn, there hadn't been no crime ______________________.

J: That's right.

B: Carroll ingram's already told, Carroll Ingram's already told about ____________________ called him up about how happy Wiley was and all that crap, after the conversation. Goddamn, I'm telling you, nothing to hide. I'm telling you.

J: Just informed a daddy about a deal that had already gone down a year before.

B: That's all it was, there was nothing wrong with that.

J: Oh well, let me go up to class, Bud, and thanks for calling. Can I call you back if I need anything extra?

B: Oh yeah, you can call me anytime.

J: I appreciate that Bud.

B: ____

J: I appreciate that Bud and you take care.

EXHIBIT
Respondent's
Exhibit 64

TELEPHONE CONVERSATION BETWEEN JAMES B. HALSTED
AND PAUL H. "BUD" HOLMES, DECEMBER 22, 1986
IMPROVED VERSION FROM OMEGA STUDIOS
ROCKVILLE, MD, JULY 6, 1989

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 64

J: Is Bud in, please? Hello, is Bud in?

B: Hello.

J: Hello, is Bud in?

B: Yes this is he.

J: Bud?

B: Yeah

J: This is Jim Halsted

B: Jim, what's going on?

J: Not much buddy. I've got a problem. Is there some kind of bad connection here? I can barely hear you

B: No, I don't think so. I just got Sprint.

J: You know that article that I told you I was doing?

B: Yes.

J: Well, the stuff that you had told me, my editor says that I can't use it because I heard it unless I get it recorded to show that it's some kind of editorial thing. Would you mind telling me that again over a tape recorder?

B: No, I wouldn't mind.

J: Are you sure?

B: It's fine.

J: Okay.

B: __________ Hell, I can give you a written statement.

J: Bud, you know, I'm way down here in Tampa. It's hard for me to get together with you.

B: Uh, Give me about; why don't you do this; It's about 8:00

J: That's right, I'm about an hour ahead of you.

B: I'm in the shower [unintelligible]

J: Do you want me to give you a call back?

B: Yeah. Why don't you give me a call back. Say about, about, why don't you give me a call back, give me about 20, about 30 minutes; you can call back.

J: All right.

B: Okay?

J: Sure.

B: Give me time to get out of the shower. Okay, great.

THE PHONE HANGS UP. DIAL TONE. THE CALLS MADE HERE BY HALSTED TO DETERMINE HOW WELL THE TAPE RECORDER IS RECEIVING. CALLING TIME AND TEMPERATURE. TIME AND TEMPERATURE STARTS AT 9:35. TELEPHONE RINGS

B: Hello.

J: Bud?

B: Uh huh

J: This is Jim again.

B: How are you doing?

J: Hey, you don't by any chance also have a tape recorder you can do this with? I've been doing mine with time and temperature and it's terrible.

B: I don't, [CUT OFF] I guess [CUT OFF] [UNINTELLIGIBLE]

J: Oh God! Okay, well, maybe you can talk kind of loud because I guarantee, I, I tried to tell that guy, tell what temperature it was and I had to turn it up full volume to hear it. I bought this, it cost me 98 cents at Radio Shack, so I don't know how much to put on it. I went to the Nixon appeal and was like taking notes on it at the Fifth Circuit, and Weingarten brought up some other things that I think you can clarify, that we had talked about last time. anyway, just for the record, you told me that on count three, where Nixon was charged with perjury when he said he never discussed, no Paul Holmes never discussed the Drew Fairchild case with him and he said no, he didn't, not to the best of my recollection. Do you think he was telling the truth?

PAUSE

J: Especially with the word "discuss".

B: Of course, it was a play of words; what we talked about; when I say we talked about it. He didn't ever ask me the facts about the case, none of ________, was not asking, was not inquiring, was not asking about it. He never asked me.

J: Uh huh

B: And I told him, I blurted out, what it was in the first place with the facts of the situation. [UNINTELLIGIBLE]

J: What, what, you probably mentioned the case. What did you mention about the case?

B: Well, if I can recount to you, Jim, what occurred.

J: Okay.

B: And that's the only way I can do it.

J: Good.

B: On the way out to the farm [TELEPHONE LINE CUTS OFF].

J: Bud?

B: Yeah?

J: Something, the phone is cutting off. I don't know why.

B: Can you hear me?

J: I can hear you, but all of a sudden you go blank for a second.

B: You know somebody told me that yesterday; we had chosen "Sprint".

J: Uh huh.

B: Umm, yesterday I called somebody about three times and they said they couldn't understand me and I guess they thought I was bugging them or something.

J: Well, yeah, just like it goes blank for two seconds, then you come back on again.

B: Well, is it doing it now?

J: No, it's perfect now, we'll try it again.

B: Okay. Anyway we were [TELEPHONE BLANKS]

J: There it went again.

TELEPHONE BLANKS

J: I can't hear a word. I can't hear a word you're saying.

B: Huh?

J: You just went totally blank again.

B: This damn "Sprint". [UNINTELLIGIBLE]

J: You know, I just ordered Sprint too. I'm probably going to get taken.

B: The problem is, you know, out here though, it's something about the, where the farm is, it's different. For instance, I can't dial out on Sprint.

J: Well, for heaven's sake.

B: I can dial out and get an access number to um, [UNINTELLIGIBLE] Oh hell [UNINTELLIGIBLE]

J: Uh huh

B: I can dial locally but I can't dial out long distance [UNINTELLIGIBLE]

J: That's right.

DIAL TONE

B: Hello

J: Bud?

B: Uh huh

J: This is Jim again.

B: Alright, let me get this guy off the line. He's on the other line. You want to hold on or just call me back in a few minutes?

J: I'll hold on.

B: Okay.

HALSTED HOLDS THE LINE FOR APPROXIMATELY SIX TO SEVEN MINUTES

B: Back again. Ok, let's go -- let me get on the other line, I got another couple calls.

J: Okay

B: Jim? Can you hear me now?

J: Yeah.

B: Okay.

J: I was going to ask you, what's the situation with your case?

B: Oh hell, they ain't never ruled on it yet.

J: They still haven't ruled on it?

B: Huh-uh

J: That's incredible! I thought for sure you'd hear something by now. I'm sure you're going to win.

B: When I started this thing out, if you'd told me that anything would even come out of it [UNINTELLIGIBLE] a little adverse [PHONE CUTS OFF] I said [PHONE CUTS OFF] you know.

J: Uh huh. Well, um, I hope you're not on Sprint down there, Bud.

B: Am here where I am right now.

J: Okay. Let me tell you what Weingarten argued down there at the Fifth Circuit. On the word discussion, you know, which was the big deal, did they discuss it. Again, they were kind of playing semantical games. Weingarten said it counted as a discussion because of the following incidents:

1. Some mention that Drew asked me to put in a good word for his kid. That he said counted as discussing the case.

B: I'd have to _______ that.

J: Oh well, excuse me, not that, but um, Weingarten said that counted, that conversation that went back and forth, that constituted a discussion. Also, some mention about the plea bargain agreement, and then finally going up and making the telephone call, he said that counted as discussing the case, which I think is a bunch of nonsense. Uh, the, the question.

B: As far as influencing me, Nixon did not influence me intentionally or try to influence me one iota. I very easily, trying to be, whatever, __________ personally. I very easily could have been subconsciously wanting to do him a favor as if you had asked me.

J: Yeah, you had told me that before.

B: If you'd asked me or if all the troops had asked me or if the preacher, or chances are some, some fellow off of Earth, or just somebody I knew that _____ glance over, consciously, when people say things to you, you'd like to be able to be a hero.

J: Yeah.

B: Now that's pretty much true of any politician or anybody else but as far as, hey, I can give as good a deal _____ favors, I return the favor or something.

J: When Nixon said I never sought to influence Holmes, how do you know, you two were the only two people in the room.

B: Right. I don't think, Nixon was very positive that he did not want me to do anything; my remembrance was never asked you to do anything that would embarrass you. I'd never ask you to do anything. It could be he just knew my personality. He was trying to make a statement. As I gathered _________ [CUTTING OFF] _________ which was he asked me [CUT OFF] merely stating that he said something to me.

J: What about, uh, Weingarten made a big deal about the facts of those subsequent statements, those things when he brought you out to the car and said, Bud, why were you the one to go up and call Fairchild and statements like, why did you, the only reason I was out there was to talk about his allegation of blackmail, Weingarten said that implied a guilty mind on the part of Nixon.

B: Uh, no, that [CUT OFF]

J: Good Lord. You just cut off again! Bud? I'm telling you this thing is cutting off like crazy.

B: In thirty minutes it hadn't been cutting off.

J: Huh? I wonder if it's my phone. Anyway, I didn't get any of that last part. What did you say again?

B: He didn't speak to me about blackmail [CUT OFF] or anything else. It was a discussion with Nixon at a later point, whether it, there was somewhere he said, Wiley has accused you of shaking him down.

J: Uh huh.

B: It happens ________

J: Uh huh. What about the time you all went out to the car outside the courthouse?

B: That was the night, it was about thirty minutes after [CUT OFF] that he had told these people in Washington about the phone conversation and I wanted to go tell the judge that there's nothing to hide, there was certainly nothing illegal about it and there was absolutely nothing to be concerned about.

J: Believe it or not you just cut off again. Bud? I'm telling you, you're cutting off like crazy.

B: I

J: Let me see what, do you think maybe you could call me and see if it works the other way?

B: Sure.

J: Okay, it's area code (813) 684-7791, okay? All right.

THE PHONE HANGS UP. HALSTED WAITS FOR HOLMES TO CALL HIM BACK.

J: Gosh, I hope it sounds better this time.

B: Is that better?

J: Yeah, that sounds better.

B: __________

J: Laughs. I got it (phone hangs up on another extension).

B: Huh?

J: My wife answered the phone.

What would, ah, if you could look into Nixon's mind, when he was before that grand ;jury and he said I never sought to influence Bud Holmes, why is he telling the truth?

B: I think he sensed, um, we were all, to be as I recall, I think, that that on television they showed pictures of oil wells, of all kinds of accusations, and those people would see the oil wells and things like that, in exchange for fixing Drew Fairchild's case, and I think, kind of like accusing. I don't know exactly how to paraphrase it, but like ah, saying hello to a pretty young lady and somebody that's been nice to you and the next day it comes out in the papers and you're accused of rape and everything else.

J: Yeah.

B: All you did was say hello to her.

J: Uh huh.

B: And that was about the way that was said and you came back fighting mad. __________

J: Uh huh. Well, of course, with him saying he didn't want you to do anything, didn't want you to

B: __________

J: Yeah, the big thing they said about the influence was passing the case to the files. Ah, I don't think that was anything.

B: It had absolutely no effect on it.

J: I know. Why would

B: Like I told ________ he had; when I passed it to the files, ____ like that? _____ come back out? I had that ________.

J: That's right. What about when White? And this was a big deal on appeal. When White says that first of all the reason you told him you passed it to the files was due to Porter and secondly you told White the reason you passed it to the files was due to Nixon.

B: You know later on after it came up. I did have a discussion with him and said that I had talked to Nixon. He said well, why did you do it? He said well, because Nixon asked me.

J: He asked you to pass him the files?

B: No, no, no. That's not what I mean.

J: I didn't think so.

B: I said it was not because of Nixon.

J: It was not because of Nixon.

B: That is correct. It was because in my mind, not because Nixon asked me to at all, it was just like, Jim, going back again.

J: Okay.

B: If you had said something to me, you know, one thing about it. I said, yea, I'd like to go over and help you out, Id' like to __________

J: Uh huh.

B: __________ Jim did say something to me and he asked me not to do anything that would embarrass myself, yeah. I'll make old Jim look like a hero, you know, it happens every day. I've already gotten ____ before.

J: Yeah. Why not take advantage of what's already done?

B: If I'd do one thing, I'd have ten people saying how good it was, but if I'd have dreamed it was going to be half an embarrassment to anybody, hell, I wouldn't have done it. I was friends with Carol Ingram, I was good friends with Carroll, and everybody. __________ I knew Carol and Wiley personally. I guaranteed him the order to pass it to files and Carroll _____ fine. I'd take care of it.

J: Yeah.

B: And I think Wiley always was somewhat screwed up in the mind. To be frank, you know ____ Wiley's the type _____.

J: And of course Wiley's too stupid to realize that was kind of a legal absurdity.

B: __________ It seems to me, it's just that uh, _____.

J: Wiley never figured out, it seems like to me you'd already done everything you could for the kid. Wiley could never have figured that out. He still thought something was up . And anything you did for Wiley, he thought it would be something additional even though what was done was already done.

B: My understanding, Wiley, um, Wiley got a, Wiley had this big plan that like Bob Royals ____ that your boy did. They just asking you ____ and then they finally got Wiley's boy. And also __________ And it just was not the case.

J: It just wasn't the case at all. Uh huh __________. After the thing was passed to the files Nixon didn't know about it?

B: I don't recall, I might have told him something about it. I don't recall.

J: It never came out at trial that you told him.

B: _______ I don't recall. Hell, I talked to him a couple of times.

J: Yeah.

B: Um, hell, I may have even asked him questions. 'How are your investments coming?' 'How are you doing?'

J: Sure.

B: Did those damn wells turn bad like the other investments? Hell, I conveyed, said something to him like that.

J: Uh huh

B: But, I did not recall it, I truly recall, did not mention it ____________.

J: Yeh. Think again, Bud. That night at the farmhouse, when you guys are out there doing whatever, um. That as a whole, as a lawyer, talked, the little bit you mentioned about Drew Fairchild's case, if someone had asked you under oath, and put you on a lie detector, had you actually discussed the case, what would you, what would you answer? From the point of view of a lawyer, and the word "discussion", from a legal point of view.

B: Well, if you had put um, there again, let me say. I would, if you asked me the word, did you all, was the case mentioned. I would have said yes.

J: Yes.

B: Did you talk about the case, I would say yes. Did you discuss the facts of the case, I would say no.

J: No.

B: You know, that's what was so stupid!

B: Did you discuss the disposition of it, then I would say I voluntarily said, hell what you want me to do or what did Wiley want me to do. Wiley.

J: Uh huh

B: Hell, it's already, the boy's already not going to jail. He saved by the government for his cooperation. __________

J: Uh huh.

B: Um, his words were, Wiley, later on, as I recall that discussion took place in the car. If that were a discussion.

J: A discussion of the disposition, not necessarily a discussion of the case.

B: Well, whatever, that would be the exchange of words, at that point. Then, later on, as I recall it, do you mind if I tell Wiley. __________ quite possible _________.

J: Course, he and the kid weren't on speaking terms.

B: __________ And if Wiley called me up, I probably, if Wiley Fairchild would have called me up, Bud, I want you to do me a favor.

J: Yeah.

B: And I'd say, what's that Mr. Fairchild? That's what I'd have said. And he would say, you got my old boy, I been embarrassed about him since he was sixteen, old boy's bad in his business sense and it worked out __________. I get these kind of calls all the time. Then I, in all likelihood, I would have said, Mr. Fairchild, he has already agreed to cooperate and he's already cooperated in everything and I'm just on the tail end of it. I'd have said the same thing if you'd have called.

J: Yeah.

B: If anybody'd asked me, I had called.

J: Hmmm. You see, that's what's so confusing. They are trying to indicate that there was influence in the case in the sense that there, what was done was already done and all that was done was pass along the message to Wiley of something that had already happened.

B: I did the same, Jim, all I did, the same kind of thing ten million times. I wanted everybody to get credit for something that had already happened.

J: Okay, let me ask you.

B: __________ You get into a small town in a small community and everybody knows everybody else. A very normal ____ southern type of minds and tell them, so-and-so, I talked to the government. Sure, in politics those things happen. __________ and it will continue to happen cause there's no way to stop it. You can vote for somebody in a local school election, whatever, you know, after it's over you find out old so-and-so really __________. And they walk up, the first thing walk up and say, hey I like old Delgado. He's a fine man.

J: Yeah. I see what you mean.

B: You know that's all. I mean, it's just, I'm a human being to say it's a common occurrence. __________ turn over the situation __________ __________

J: That's right.

B: __________

J: What

B: I noticed one thing that came out real clear. __________ It came out later and they said get it over with and give us some cooperation. You remember that?

J: Yeah. I remember that.

B: That's what they put us through.

J: They sure did.

B: This has been going on __________. You know they can make the decision where we'll destroy you, and you know they make up their mind like they do up there in Washington, and they've got the power to do it.

J: They've got the power to do it. They sure do.

B: And they got this thing [INAUDIBLE] They can play God if they want to.

J: That's right.

B: They know, they might decide well, so-and-so can give us some information. The first thing they do is they bring him in. Well, we'll give him immunity, so they give him immunity __________

J: Uh

B: They bring him and and ______ cause so-and-so says ________.

J: That's right.

B: So that immunity thing is chilling.

J: That's true. Let me ask you. I was writing my thing down here as a note to myself. The two major questions that I want to ask you. Only you and Walter Nixon were in the room together when the subject came up. Nixon gets before the grand jury and says I never discussed the Drew Fairchild case with Bud Holmes. Was he telling the truth or not, form his point of view?

B: If, in his point of view, he was trying to say I never discussed the Drew Fairchild case with Bud Holmes in exchange for any favors, __________ from Wiley Fairchild, or from that point of view, then what he said was true.

J: Okay.

B: As far as saying he never verbally discussed it by saying, hey, Wiley put in a good word for his boy, ________________

J: No, no. He's not saying that. He's just saying that those things do not constitute discussing the case.

B: Yeah. That would have to be a discussion. My way of thinking, a discussion of the case is he didn't have, from the facts, the form of the disposition.

J: That's what I think it is.

B: In law school if you say let's discuss the case, you get into areas of position, _______________ possible claims _________________.

J: Legal issues.

B: Legal issues. In law school you're trained to do discuss the issues.

J: Right.

B: And that would be saying form a law school point of view, no, no, he did not discuss the issues, he did not

J: Did not.

B: With his training ___________ in relation to discussing ___________________. In talking about the facts surrounding the case.

J: And if that is true, that's what he thought.

B: IF that's what he thought then he stated the truth. My own personal opinion was that he was just incensed that someone had accused him of exchanging his influence over me.

J: Uh huh

B: All of the outcome of the case I had control of, in exchange for the gratuity _________

J: Right.

B: And, I think he was so incensed,

J: Because that was totally false.

B: In his mind, I think he was just plain mad. And he walked in there mad and ____. He probably walked in there angry and said, I never discussed this. And say, he never talked to him about it, or the word didn't ever come up. Or if he said anything like that.

J: That would be false. Yeah I understand what you are saying.

B: And that was the impression, quite frankly, when I talked, the statement to the ____. I felt like I was there and put on the spot. __________

J: Uh huh. You know one of the things

B: ____

J: Yeah. You know one of the things that they tried to get an instruction what it means to discuss a case form a law school point of view. The judge refused the instruction; that's one of the issues on appeal.

B: Yeah. Going back again, Nixon had walked out of the trial, no problem at all. Fawer's come in and said Judge Nixon, to your knowledge have you ever done one thing wrong to try to influence a case, federal, or state ____? Look, look judge I'm _____ ___________, and why do you think I made the statements ____________ church _____________ I understand Bud ___________.

J: Did the Nixon grand jury ever ask or was it just the prosecutor?

B: __________ I was told from the ___________ Drew Fairchild __________

J: Sure.

B: ____________ and I was

J: Uh huh

B: __________________ Had I been told that ____________

J: Sure, very interesting. Let me give you one more nitty gritty question. Nixon's before the grand jury and he said I never sought to influence Paul Bud Holmes. Was he telling the truth in the Drew Fairchild case? Based on the discussion.

B: Based on the discussion ______________

J: Now he in fact did have an influence on you but

B: He was ______________. I am sure that he was glad to let Wiley think that he did it.

J: Uh huh

B: But if he talked to me, I do not ________ anything about, anything _____ or _________. But I don't think that he intended in his heart to ____________.

J: Because what was done was already done.

B: Of course, he didn't know that.

J: Yeah, uh huh.

B: He did not know that. And I __________ basically didn't want to know _____________. I don't want to know about it. I don't really care.

J: Good God. A man goes in there, says he doesn't want to influence you, and he doesn't want to know the facts of the case, and he's convicted for lying when he says he never discussed the case and he never sought to influence you. That doesn't make any sense to me.

B: What it would have to be was a discussion for just the mere fact that what he said to me contained ______ information __________ subsequently. If that set of facts ______________________________

J: Sounds like to me we're convicting him on semantics more than we're convicting him on substance if that's the case.

B: But you take my testimony, I don't think I'm telling you anything right now that I didn't tell you.

J: I don't think so either. I've looked at your testimony very carefully. I don't think you were asked completely enough questions. I think that if you were just simply cross examined

B: I think that if you go take a ___________________

J: I read on the transcript of it

B: ___________________

J: Don't be crying (laughs)

B: ___________________

J: Yep

B: ____________ testimony that ____________

J: What about your talk with Carroll Ingram? THat supposedly afterwards that, you know, you had talked with Nixon, talked with Wiley, and all that stuff. Ingram testified to it.

B: ____________ which ____________

J: Well, it was the time when Ingram got the idea that the phone call had taken place and he got the idea that Nixon had asked you to do a favor for Drew. Even though Ingram was very unclear when he testified about that. He said he got a positive feeling that Nixon had asked you to do a favor for Drew and you told him that.

B: I think, see Carroll, see Nixon's connection with Wiley was Carroll.

J: I knew that.

B: ______________

J: Yeah, I gotcha.

B: And sometimes I want to say any conversation with Carroll, shortly after the phone call. But I talked to Carroll several times ____________________

J: (laughs)

B: But we were very good acquaintances

J: Uh huh

B: And as I recall, just shortly after the Nixon _______________ illegal judge _______________ Carroll might __________ think about Wiley, loudmouth, about the judge calling and testifying.

J: Uh huh

B: We had a conversation, as I recall it, something about

J: Uh huh

B: You know ______ then all of the stuff came up _________ Wiley _______________ hell, I wouldn't care. I didn't care.

J: Why do you think the judge asked you about the tape?

B: I think that at that point in the investigation he thought something, as I recall it, the judge sensed Wiley, and I think the judge thought Wiley was saying I gave Judge Nixon ______________________

J: Uh huh

B: That's what I think the judge was _______ and I think the judge seemed to think ________________________

J: Uh huh

B: I think _________ the judge _________ might _________ I'll have to make that __________________ and that, I think that that's _______________ I think the judge ________________ next day _____________ hell and I'm sure the judge thought Wiley ____________ just like right now I'm not taking investments but six months from right now _____________

J: Yeah, okay, I got you. I follow you completely.

B: And I think the judge, the judge's more concerned at this point about the outcome.

J: Yeah

B: And you damned sure ________

J: I follow you

B: And I think the judge made a mistake. I think the judge should have jumped up and said I don't know what the son-of-a-bitches said, I don't know what anybody said _________ goddamnit we __________. I called Wiley Fairchild, I talked to Bud Holmes. I asked Bud if it would be okay if I told him. Bud says no, it's fine. We called Wiley. I hope so, then if they got a tape of the conversation it'll show exactly what _____. If the judge had of taken that approach too.

J: He'd be walking the streets free forever.

B: Walking free.

J: You bet he would.

B: Follow?

J: I follow you completely.

B: He'd say, let's go get the goddamned thing. Hell, let's go play the goddamned thing.

J: Yeah. You know it's funny, Weingarten

B: Let's go take a little, let's go see Wiley, let's look, I want to see that son-of-a-bitch __________. But nobody realized Wiley was

J: I know it. That's the secrecy of the grand jury. You get those leaks and you don't know what's going on.

B: No, no, that was during the investigation.

J: Oh, that was during the FBI thing.

B: No, that was when they first walked in and saw 'em down in

J: Down in Biloxi.

B: Um, Biloxi.

J: Yeah, Weingarten

B: And Nixon calls me fighting mad.

J: Uh huh

B: Follow?

J: Gotcha

B: What in the hell is this blah blah blah blah blah blah blah? You know Bud, I know goddamn, I told them son-of-a-bitches I never discussed it with anybody. I never had one bit of influence blah blah blah. He didn't tell them about the phone call and he asked me to find out if Wiley taped the phone call.

J: Yeah. So he could go get it and really prove his innocence.

B: Well, I don't know whether it was that or if he just wanted to find out. Wiley had the phone call ______ I think he just wanted to know where he stood.

J: Sure. Well that makes sense. Okay buddy. I think you answered all my questions and I'm writing notes down here and I've got all my questions scratched out. You don't have any problem with me using this in one of my articles do you?

B: No. I'd appreciate it if you'd do this

J: Sure, anything

B: Send it to me ahead of time to proofread it. My only problem, my only problem is if they do ________ Weingarten himself has got a ______________.

J: Yeah.

B: Was I thinking __________ at the time _________.

J: Gotcha.

B: After ______________

J: How about this, how about if I get a transcript of what we
just said and I sent that to you.

B: Sure.

J: Would that be okay?

B: Sure.

J: I'll do it.

B: As far as I'm concerned, I'd go on national TV and 60
minutes ___________ but I still can't believe ________.

J: I can't believe, I don't think you did anything wrong, I
don't think Wiley did anything wrong. I don't think Nixon
did anything wrong.

B: What I can't see, first of all, Weingarten ________ and first of all, I can't believe our governor, I guess our prosecutor, maybe I was too damn ______. I never saw ______. I represented __________, I never saw, you got to understand I represented _________ and as a prosecutor and I felt like as a prosecutor, I felt like I was a district attorney just as much or more so that I owed the state one thing and that was to make sure this man was guilty before I _______. I was not supposed to go ________.

J: Oh sure.

B: I said if we get a conviction _____ but I didn't think the State had enough evidence.

J: Yep, you sure did say that.

B: And that was one case I felt like I was a damn coward. And let's see, I guess I was dong what I thought was right and as it turned out I was right. _____________ ________________________ I thought judge

J: Yeah, I did to

B: ____________________

J: (mumble)

B: ____________________

J: (laughs) You're right.

B: Goddamn politics ______ absolutely __________.

J: Isn't that something.

B: Did I tell you about the time __________

J: Hu uh

B: ________________

J: (laughs)

B: _______________

J: Is that right? Isn't that something?

B: ______________________

J: It sure is.

B: ______________________________

J: I agree with that.

B: ____

I could make __________

J: That's true.

B: But I just _____________

J: Uh huh

B: _________________ _______________

J: You're right. I think anybody that knows what's going on would say that.

B: _______________

J: Good lord.

B: ______________

J: Yeah

B: ______________ Judge Nixon

J: Well, Bud, I got to go. Thanks so much and I'll send you a copy down.

EXHIBIT
Respondent's
Exhibit 65

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RESPONDENT'S EXHIBIT 65

Q. Now, sometime thereafter an order was entered, I think, remanding the case to the file or something of that nature?

A. Passing to the file.

Q. Passing to the file?

A. Yes.

Q. An order passing a case to the file does what? I used to be an assistant district attorney.

A. Absolutely. Moves off active docket to inactive docket and it stops the 270-day rule from running.

Q. It does stop the 270-day rule from running?

A. Yeah. And both people got -- as long as the defendant agrees to it, everybody is in agreement, they can go ahead and still demand a trial; but the 270-day rule was abated as long as it was in the active file.

Q. Now, the 270-day rule wouldn't apply to Drew if he's already pled guilty, would it?

A. That would be correct. That would be regarding a plea about it. The only reason that I'm saying -- the reason this passed to the files about a year later was because Bill Porter was screaming, was fussing about it, you know, about that it was up in the air and everything.

I said, "Bill, we will just go ahead and do it."

If you recall, we kept getting continuances in the case. Remember it kept continuing, continuing, continuing? That's what they did, as far as I can see.

Q. What, if any, conversations did you have with Katie Matison about passing that case to the files?

A. None.

Q. Did you do that yourself?

A. Did it.

Q. Now, when did you go out of office as district attorney?

A. January of 1984. December 31 of '83.

Q. Now, after the case was -- what did you say -- retired to the file, is that what you said?

A. Passed.

Q. I'm sorry. Passed to the file. All right. It was reinstated?

A. That's right.

Q. Why was it reinstated?

A. Because we located Watkins.

Q. When did that happen? Do you remember relative --

A. About February of that year when I reinstated it.

Q. '82?

A. I don't know.

Q. I think that would be 1983.

A. Located Watkins.

Q. And was Watkins ever tried?

A. No.

Q. What happened to him?

A. Jumped bond again.

Q. And to this date has anybody found him?

A. No.

Q. He jumped on a hundred-thousand-dollar bond.

Q. What kind of bond was that?

A. Surety bond. Forfeited it. I think the State collected on the bond.

Q. What, if anything, do you know about a meeting in the summer of 1983 where it was arranged that Wiley Fairchild would make a campaign contribution to Glenn White?

A. Never heard of that.

Q. Never heard of anything?

A. No, never in my life.

EXHIBIT
Respondent's
Exhibit 66

DECLARATION OF PAUL HOLMES

Paul H. ("Bud") Holmes of Hattiesburg, Mississippi, hereby makes the following statement.

1. As I testified during the trial in United States v. Walter Nixon in Hattiesburg, I spoke with Walter Nixon in May 1982, at a time when I was District Attorney for Forrest County. Nixon mentioned in passing that Wiley Fairchild had asked Nixon to put in a good word for Wiley's son, Drew, who was awaiting sentencing on a guilty plea he had entered to an indictment brought by my office.

2. Nixon made absolutely clear to me that he was not seeking any preferential treatment or special favors for Drew Fairchild. I understood that Nixon simply was passing on to me the information that Wiley Fairchild had been asking about his son's case. I would have expected any friend of mine to mention to me that a member of the community had been asking about a case for which I was responsible.

3. I was not influenced in any way in my handling of the Drew Fairchild matter by this brief exchange with Nixon. My office took no action -- nor failed to take any action -- with respect to the Drew Fairchild matter because of that brief exchange I had with Nixon.

4. In my telephone conversation with Wiley Fairchild that evening, I did try to give credit to Nixon for helping out with Drew Fairchild's case. Such remarks, in my experience, are

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not unusual for a prosecutor or any public official to make. It was my practice as District Attorney to make up my own mind as to the public interest on any law enforcement or prosecutorial decision. Having decided myself which course should be followed, it was not unusual for me, out of friendship, to accord credit to others for having influenced my decision.

5. On March 27, 1985, I and my attorney, Maurice Dantin, met with federal prosecutor Reid Weingarten. Weingarten informed me that I was likely to be indicted that week but that I "did not have to be indicted" if only I would fill in some gaps in Weingarten's investigation. Weingarten said that I was a "savvy" guy, and would understand what he meant.

6. Based on my experience as a prosecutor and my experience with Weingarten's investigation, I understood perfectly that I could avoid indictment if I provided incriminating testimony about Judge Walter Nixon. Because I have never know of -- or even heard a rumor of -- any corrupt or dishonest act by Walter Nixon, I could not take the deal that was offered by Weingarten.

7. After I entered into an agreement with the federal government to plead guilty to a single misdemeanor for contempt of court, federal prosecutor Weingarten stated to me that he doubted he could have convicted me on several of the counts of the indictment against me.

8. Also after my plea agreement was reached, federal prosecutors and agents questioned me to attempt to establish a connection through me between Walter Nixon and the owners of Petit Bois Island, John Stocks and Eugene Lewis. I explained to the prosecutors and agents that I knew of no connection whatever between Nixon and those two gentlemen.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: Jan 29, 1988

/Paul H. Holmes

EXHIBIT
Respondent's
Exhibit 67

BEFORE THE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS
U. S. HOUSE OF REPRESENTATIVES

In the Matter of: An Impeachment Inquiry concerning U. S. DISTRICT JUDGE WALTER L. NIXON, JR.	H. Resolution 407 (100th Congress, 1988 Session)

The deposition of JOHN MARLIN ROPER, taken by Counsel for the Committee on the Judiciary, by William L. Warren, Court Reporter, in the Grand Jury Room, First Floor, U. S. Federal Courthouse, Biloxi, Mississippi, on the 19th day of December, 1988, commencing at the hour of 4:41 p.m.

oOo

COUNSEL PRESENT:

PAMELA NAUGHTON, Attorney
PETER KEITH, Attorney
Committee on the Judiciary
U. S. House of Representatives
Washington, D. C.

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PROCEEDINGS

MR. KEITH: Judge Roper, this is a deposition being taken in connection with the impeachment inquiry concerning Judge Walter Nixon, that is being currently conducted by the Committee on the Judiciary of the House of Representatives.

Whereupon,

JOHN MARLIN ROPER

appeared as a witness herein, and having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. KEITH:

Q Why don't we begin by having you state your full name for the record, sir?

A My name is John Marlin, M-a-r-l-i-n, Roper, R-o-p-e-r.

Q And you're currently a U. S. Magistrate here in the U.S. District Court?

A Yes, I'm currently a full time United States Magistrate for the Southern District of Mississippi.

Q Can you describe for us briefly what your legal experience has been since you passed the bar exam?

A All right. I finished Tulane Law School -- actually I finished Auburn University in 1964, attended Tulane Law School beginning in 1965, three years, I graduated from

Tulane. I worked as a counselor and director for a juvenile delinquency home in New Orleans while in law school and immediately after law school.

Went back to Alabama, which is where I'm from, Greenville, Alabama, took the bar exam, went into six months active duty with the National Guard, which I was a member of, after I finished law school, completed that in the summer of 1969.

At that time I was employed as law clerk to Judge Walter Nixon, Southern District of Mississippi with a three-year commitment to him. After the third year, I remained with him because of the possibility then of a full time United States Magistrate's position being established, we had only part time magistrates beginning in the early 1970's. That did come about. In the meantime I had also taken the Mississippi bar exam and passed it, so I was eligible for the position. I was appointed full time magistrate in 1974, took office in I believe August of 1975 and have been full time United States Magistrate since that time.

Q Okay. Can you describe for us briefly what the duties of a magistrate are, in your experience?

A It was the desire of the district judges, and there were three of them, Judge Nixon, Judge Van M. Russell, Jr. and Judge Harold Cox, to have a magistrate who would be able to try civil cases.

Because of my experience in the courtroom, federal courtroom, as a law clerk to Judge Nixon, I had gained experience in how to try federal cases, so I began with a two-week calendar I think the week after I was appointed. My primary duty over the last 14 years I guess almost, has been to try civil cases. That is, try cases by consent, or try cases based upon the recommendation to the District Judge.

I also handle all the discovery. At the time when I was the only magistrate, I handled all the discovery for the entire district. We have two other magistrates now, so we share all of discovery. We review Social Security appeals, we handle all the habeas corpus, all the 1983 cases on prisoner complaints. In addition, we handle the misdemeanor court which includes the Natchez Trace, Gulf Island National Seashore, Seabee base and Keesler Air Force Base, as well as the VA Hospitals, for misdemeanor court.

Those are basically the duties. We handle all the pre-trials for both civil and criminal cases.

Q Okay, and when you say you handle discovery and pre-trial in civil cases, would that also include cases in which you were not assigned to handle them, either through consent or through referral?

A Yes, the district judges, both then and now, do not handle any discovery. It's more formalized now than under the original Magistrates Act, magistrates were authorized to handle discovery and did so. In this district, we've handled all of discovery from the very beginning of the case up until the time it actually went to trial. Normally the magistrate will also pre-try the case.

Q Since you mentioned the question of consent and referral in your capacity as a magistrate and since that bears some relevance to the case that I'm going to be asking you about, perhaps you could explain to us what the difference is in your experience and what that means in terms of what your responsibilities are vis-a-vis what they district judge, U. S. district judge, would be doing.

A Under the original Act, there was no specific statutory authority for magistrates to try cases. It was a catchall provision which allowed magistrates to do anything not inconsistent with the Constitution and laws of the United States. That's basically the authority for it.

For a number of years, magistrates did try cases. Eastern District of Louisiana was one of the leaders in the nation and Judge Sear, who came over here as a Special Master. The judges like that, so they adopted the Eastern District's procedures. So from the time I began, I began trying cases. Basically lawyers simply would sign a consent form and then I would try the case and enter a judgment and it would be appealed to the Fifth Circuit.

There was no formalized procedure. That began to be questioned in the mid-'70's to late '70's as to whether or not without specific statutory authority a magistrate could try a case. One of my cases was reversed and as a result we had the '79 Magistrates Act which gave specific authority to a magistrate to be able to try a civil case. It provided for an appeal either to the Fifth Circuit or to the District Judge, depending what the parties desired.

So after the end of '79, from '80 on, magistrates throughout the country have tried cases. Now that Act was challenged and it was determined to be constitutional by the Supreme Court.

So my trial of cases would be normally by consent of the parties and at some point in time we also required an order of reference from the district judge. I cannot recall whether that was before or after '79, but at some point we also required that.

Either by consent of the parties I would try cases, always jury cases would be by consent of the parties, and non-jury cases would be normally by the consent of the parties but some would be by order of reference. We have a much more formalized procedure after the '79 Act for order of reference. It was a little looser before that, sometimes it would simply be an oral reference, to some extent, and I would report back by recommendation. That recommendation would be reviewed by the District Judge and he made the decision de novo based upon the recommendation. Recommendations were normally in Title VII cases, which could be referred after I believe 120 days if no action had been taken. Prison cases were also a source of a number of recommendations, because prisoners usually won't consent to anything.

Q Okay. With regard to consent cases, what was your practice in your experience in the docket that you handled in terms of how that consent would be reflected. You mentioned a consent form.

A It should be -- parties — and this was the requirement -- parties should sign a consent form. Now it was more formalized after the '79 Act which specified exactly that the court could not interfere in any way, in an attempt to persuade parties to consent one way or the other. What was adopted was a consent form is sent to the parties after the case is filed and they simply file it without the court knowing anything about it. Before '79, it was probably less informal, they may have received a copy of a consent form or prepared their own consent form at the time of trial.

But it should have been -- any case in which a magistrate tried the case from the very beginning of my experience as magistrate, should have been done with a consent form and that consent form should have been filed.

Q Would it be possible, in your experience, for there simply to be oral consent of the parties prior to trial or was it usually done through a --

A It was usually done with a written consent but it's possible that you would have the consent; that is, they agreed to it at pre-trial and then it not be checked at the time of trial to make sure the formal document had been filed. We had experiences of that occurring; in fact, I believe the Fifth Circuit now requires that before you begin a trial, you state on the record, this is a consent case tried before a United States Magistrate and all the parties have to stand up and acknowledge that. That's because the Fifth Circuit, and I assume other circuits as well, have experienced problems where everybody agrees to it orally and for one reason or another the actual consent form does not get entered on the docket. Either it's not signed or it's not filed.

Q And when you are handling a case through consent of the parties, let's say in the late '70's for example, what would the role of the district judge be in such a case? Would he have any supervisory -- any retained supervisory responsibility?

A No, none. He was happy for me to take the case. We had such a caseload then that that is why they desired magistrates to try cases. Three district judges simply could not handle the caseload. So that was the reason magistrates became trial judges, because we were able to help with the case load. But once the case was assigned by consent, the district judge rarely had any involvement with it whatsoever, after consent.

Q So that as a general rule in consent cases, once you began handling the case, you wouldn't go back to the district judge for approval or judgments or orders or anything like that?

A I may go back to him for approval of a judgment, as I explained earlier on the record. At that time in '78 or '79, there began to be some concern about whether or not magistrates could try cases, whether they could enter judgments. START There was a period in there which on most cases, even though I may have had consent, I might have obtained approval of a district judge on the final judgment in a case, just because I was not sure of the state of the law and did not want a case which you had tried for a long time or a case in which the parties had agreed to a resolution of it, to come back simply because it had the wrong signature on it. But the district judge would play no role in that other than simply to sign or approve what the magistrate had already done.

Normally he would not sign the judgment, but there was a period in time and it was right before Congress acted in '79, that at least I did -- I sought the district judges' approval even on consent cases. Now reference cases of course he would enter the judgment himself.

Q That was my next question. Cases that were referred to you through the district judge, I gather the district judge would continue to have supervisory authority and to the extent there was anything dispositive that had to be taken care of in the case, that would be handled through the district judge.

A To some extent that's true. After a case was referred, then he would approve everything that's done. You wouldn't necessarily go to him for what might be a dispositive motion during the course of the trial. If you got a motion for directed verdict or -- although it may be considered dispositive, you would not break the trial in order to go to the district judge, even on a referral for recommendation case. He would approve everything at once that was done during the trial. Normally before the trial, on a summary judgment or something like that, it was usually handled by the district judge until such time as he tried the case.

Q So that in reference cases, you might proceed to make rulings in discovery issues or whatever?

A I would make all rulings on discovery.

Q Okay, but if it came time for say a dispositive summary judgment motion, that would be the district judge?

A It would normally be before the district judge on a dispositive ruling. It depends on when the actual referral occurred. It could be that you would make that ruling and that would still be a part of the record. He would just consider everything at once -- so it went both ways.

On a consent case, after the consent was given and it was determined that the magistrate would try it, he would handle everything, including the dispositive motions.

You have to understand too that you could refer even a consent -- even a motion. A motion could be referred and the parties could consent to the magistrate just to hear that motion. You may not try the case but just hear that motion. So that's another manner in which magistrates are used.

Q Okay. What was --

A Much more formalized though after '79.

Q What was the practice in your district with regard to reporting, court reporting of pre-trial motions in civil cases? To what extent was a court reporter present to either hear argument or --

A A court reporter was usually called for in regards to a motion in which testimony was being taken. It was not the normal practice to have a court reporter present to hear a -- certainly a non-dispositive motion. Those are normally heard in chambers. As well as dispositive motions, they were normally heard in chambers without a court reporter being present. If a court reporter is required or if it was a significant type case. An asbestos case, for example. Even though there may not have been testimony, but because of the multitude of those cases and the need to know rulings as they applied to future cases, that might be recorded. But the normal situation would not be to record either -- certainly not a non-dispositive motion that did not require testimony and probably not a dispositive motion unless it was an injunction, temporary restraining order. Just a normal summary judgment or motion to dismiss would not be recorded.

Q Okay. And as I understand it, there came to be used a Deputy Clerk's form that reflected both the presence of a Deputy Clerk in those pre-trial motion hearings, that they would record the results --

A I think that has always been -- ever since I've been with the court, a courtroom deputy or deputy clerk has been present for all motions. He sets forth what occurs, who is there, what the judge's ruling is. That's formalized in much more detail by the ultimate order that comes out of the particular hearing. Whether that's prepared by the court -- sometimes it is, sometimes it's prepared by the parties and they send the order back in for the signature of the judge. But there is a document called a Deputy Clerk sheet that is prepared that is supposed to be filed in every case in which a motion is heard.

Now there may not be a Deputy Clerk sheet for uncontested motions. The attorneys will simply send in an order for additional time to answer, they do not necessarily require a hearing. We've switched now to most motions being submitted and just decided by the court without even a hearing, and there will not be a Deputy Clerk sheet for a motion that's decided on briefs.

Sometimes dispositive motions, even back then, were decided on the briefs if the parties did not desire oral argument. Our rule, I guess until two or three years ago, was that if either side desired oral argument, the court would grant it.

Q Okay.

A That's not the rule now. We adopted the Northern District rule for the sake of uniformity.

Q Let me turn now to your relationship with Judge Nixon.

A All right.

Q I gather that since you served as his law clerk for several years and have worked with him here on the federal bench, that you had a close relationship with Judge Nixon?

A I did, I had a very close relationship with Judge Nixon. He brought me into the court system. I certainly give him full credit for training me in how to become a judge, hopefully a good judge.

Q Was that strictly a professional relationship or did it also have a social side to it?

A Primarily on a professional basis only. I certainly saw Judge Nixon obviously every day when I worked for him but as magistrate we worked in the same building. He was the only other district judge in Biloxi, there was a district judge in Gulfport. But we were in the same building, we were on the same intercom system, so I normally talked to him certainly two or three times a week. We would have lunch together. We did not socialize that much on the outside. Maybe it was because we were tired of seeing each other during the week, but -- he is a hunter, I'm not a hunter, so we didn't share the same enthusiasm for hunting, which is one of his primary forms of recreation.

We did go fishing together I believe on two occasions. I have been in his home, usually go for a Christmas party, and he has been at mine. But that would be the extent of our social relationship, although I do consider us to be good friends.

Q Did Judge Nixon ever discuss his personal financial affairs with you, either business investments that he had or business transactions he was involved in?

A No. I suppose as his law clerk I was familiar sometimes with what was going on, but nothing specific. The secretary handled it or he handled it. I never, certainly since I became magistrate in '75, I have absolutely no idea about his financial investments. We never had any joint investments, never was involved with any financial transaction. He never really discussed exactly how he was investing his money. Certainly he was concerned about the inadequate salary, as was I, and continue to be. Hopefully two more months things might change.

Q If not $135,000 at least a good chunk of it.

A At least a good chunk of it, that's correct.

Q Let me ask you with specificity about a fellow by the name of Wiley Fairchild.

A All right.

Q Did Judge Nixon ever indicate to you that he had a financial relationship with Mr. Fairchild?

A No.

Q Have you ever met Mr. Fairchild personally yourself?

A I've never met Mr. Fairchild to my knowledge. My first remembrance of Mr. Fairchild is seeing him on TV after all this began. I did not recognize him at that time, so I'm not aware of ever having met Mr. Fairchild, although I've met a lot of people and possibly met him somewhere, but I don't recall it.

Q Okay. So that as I understand it, prior to the publicity surrounding the Department of Justice investigation and ultimately Judge Nixon's indictment and trial, you were not aware that he had oil and gas investments with Mr. Fairchild?

A No. He never discussed his oil and gas investments with Mr. Fairchild with me.

Q Let me turn now to a case which you and I have reviewed a little bit off the record before this deposition, and that's a case that's captioned the Boam Company, B-o-a-m, et al v. Dependable Insurance Company, et al, Case Number S77-0385.

Do you recall anything about this case today, both from having looked at --

A I'll tell you, my recollection of that case is very simple -- of course we've gone over the docket sheets and I'm sure we'll get into the rest of it -- the only thing I can say I actually recall about that case was that I began trial on it and decided to try it in phases; that is, there were a number of subcontractors involved in this particular Gulfport sewage system and the dispute emanating from that. And I tried one first -- I don't remember the name of which one I tried first, but the attorney I believe -- you've refreshed my memory -- was Larry Lenoir. And I decided the first phase of the case against him. At that time the case -- I remember the attorneys asking for time. Whether or not I worked with them or whether they worked separately, the remainder of the case was settled.

I always recall Lenoir saying he wished he hadn't been the first one to have his portion of the case tried, because everyone else was able to participate in the settlement and all he got was a judgment.

So that's my only real recollection of that case, is his -- is this attorney's concern over the fact that his portion was tried first and I decided it against him and he missed out on some of the settlements of the other parties. But I have no specific recollection of anything else much about the case.

Q Okay. You and I have reviewed the docket sheet and some of the pleadings in the case --

A Yes.

Q -- do you recall today whether that was a consent case or a referral case?

A No, I don't. We tried to establish that -- let me say first, I would have handled all of the discovery in the case. That would be -- there was not but one magistrate handling the Southern Division discovery in 1977 through the appointment of a third magistrate in about '82 or '83. So anything that was non-dispositive, I would have handled simply because that was my job to handle it.

We looked at the -- at least the pre-trial docket sheet which says case referred to Judge Roper, as I recall the docket sheet that we looked at. And that was at the time of pre-trial. That would normally mean that the parties had consented for me to try the case. This type of case, I probably would have tried by consent of the parties, although it could have been a case referred to me. But from just looking at what we had, it would be more likely a case in which there had been consent. I'm aware there is not a consent form in there and I can't explain that. It may be because it was a referred case -- I can't explain where the consent form would be.

I can say in a case like this though the consent form probably would not have been signed until the day of trial because you had attorneys from all over, and they probably would have signed the consent form the day of trial and it was a case that was obviously supposed to last for a number of days. Fortunately it resolved itself after one day's hearing on one of the issues, so it was -- whether they did not complete the consent form or whether they completed the consent form and gave it to my clerk and it was not filed because the case was settled, or whether or not it was a referral case for recommendation, I can't tell you from looking at the docket sheet which doesn't reflect it. It may be in the transcript, as I told you, of the opinion. I think I recall entering a bench opinion on it, so it could be either at the start of the trial that reference was made as to whether or not it was a consent case or not, or I could have, in dictating the opinion, stated whether or not it was a consent case.

But there is a judgment entered, if I signed the judgment -- it doesn't reflect on the docket sheet, but if you can find that judgment and if I signed it, I was probably signing it as a consent judge to try the case without it being a reference case for referral. I cannot tell you now because I don't remember. YOu and I have looked at the docket sheet and I just can't tell from that without the forms being there.

Q Sure. I understand. If I could go through with you some of the pleadings in the case and some of these Deputy Clerk forms just so that we can understand perhaps the progress of the case as it developed.

A All right.

Q I note a Deputy Clerk's form dated 9/7/78 that indicates that you presided over a motion to intervene with an appearance by an attorney by the name of Bruce Aultman.

A Yes, he's an attorney from Hattiesburg.

Q Okay, and the docket sheet indicates that Mr. Aultman was representing Fairchild Construction Company in the case. Do you recall today there being issues dealing with that defendant in the case?

A Until you pointed out to me today that Fairchild Construction Company was a defendant, I did not even recall that.

Q Okay.

A There were a number of defendants in the case, but that Fairchild was one of them is something I did not know until today -- did not recall. I'm sure I probably knew it at the time, but I simply didn't -- I did not make the connection through all of the --

Q And then there's another Deputy Clerk's form dated May 3, 1979 that indicates that Judge Nixon handled certain motions in the case.

A That would have been before the case was assigned to me either by reference or by consent more than likely, because he would be handling the dispositive motions. I'm not aware of that particular hearing, I was not there for it and that's about all I can say. It looks like, just from reading it, he heard motions for summary judgment, took them under advisement. Granted one motion for dismissal and took one under advisement, but I'm not aware of that proceeding.

Q And so the previous Deputy Clerk's form that we looked at and your handling a motion to intervene, would that have been done in your capacity as a magistrate simply handling regular pre-trial matters --

A Handling non-dispositive motions.

Q Prior to any decision being made on it being a consent case or a referral.

A Yes, it would have been. At this juncture we're talking about, I would have been handling all the non-dispositive discovery matters and Judge Nixon would have been handling all the dispositive matters.

Q Okay, and then I note another Deputy Clerk's form dated August 20 of '79 indicating that you were presiding over a motion to strike a counter-claim of one of the defendants.

A Right, that would have been considered non-dispositive at that time.

Q And then there is a Deputy Clerk's form of June 5 of '79 and I gather --

A This is out of order.

Q That's right, this would have been preceding the hearing that I guess is described as a pre-trial conference.

A Yes. At that time, magistrates were pre-trying all cases, both for Judge Nixon and Judge Russell. Judge Cox did not believe in pre-trial, so he did not have pre-trials in his cases.

Q Okay.

A Which made it very interesting when you tried to pick a jury in one of his cases.

Q If you could take a look at the last paragraph on this particular form, June 5 of '79. There's a reference here, "The court noted it would consider motions for summary judgment," and then the final sentence, "The District Judge may decide these motions."

A My thought would be that at this pre-trial it was perhaps discussed that I would take over the case. This makes me think even more it must have been a consent case. It may be some motions that Judge Nixon already had under advisement or perhaps -- I don't know what that means, it may be that he was going to go ahead and let them file the motion before him and I would try the case. I don't know -- I don't know what that means.

It would not have been unusual though for, as you approach the trial date, which I see is set for July 9, to -- if he already had some of the motions which had already been filed, for him to go ahead and decide them or decide to go ahead and let him hear some of the motions that he had already been working on. But by it says "The Court noted it would consider motion for summary judgment," it must have been -- discussed at that time that I was going to perhaps try the case.

Q I note that this hearing would have been about a month before the actual trial date that was scheduled.

A That's about right.

Q And the phrase "The District Judge may decide these motions.", based upon your experience would it have been a situation where perhaps it had not been decided whether it was going to be a consent or a referral case?

A Could well be. I can't recall, I don't know why that's in there. As I said, it's either that motions had been filed before him and not decided -- it may be that all the parties had not decided at this time whether or not they would consent, maybe they needed it -- sometimes at pre-trial the attorneys will have to go back and consult with their principals as to whether or not they'll consent to trial by magistrate. And the attorneys may tentatively consent and then with the idea that they're going to go back and you may have one party that doesn't consent. If that's the case, then it would have been decided by the district judge, if I didn't get full consent. So that may have been -- I frankly don't know, I can't tell you for sure.

I want to note that Michael McPhail at that time was my law clerk as opposed to being courtroom deputy, so -- magistrates did not have courtroom deputies or deputy clerks, we had secretaries and we had law clerks. So the law clerk would double sometimes as a courtroom deputy and the secretary would be the courtroom deputy sometimes in the courtroom, and a law clerk, who, as McPhail, was with me for six months, his notes may not have been the greatest. I hate to say that about a lawyer, but he may not have known exactly what a deputy clerk should do. I did want to note who the deputy clerk was and that was not a deputy clerk, it was my law clerk.

What happened is in order to have a law clerk, magistrates were able either to choose between a courtroom deputy or a law clerk, and because I tried so many cases I naturally chose a lawyer to be in the position of the courtroom deputy in effect. We now have law clerks and also have courtroom deputies assigned to us, but we did not in

1979. That may be why the consent wasn't filed too.

Q And then there's another Deputy Clerk's form August 9 of '79.

A Okay.

Q Again indicating that you presided.

A All motions denied, I assume by me. This is where I -- it looks at this point in time like I'm deciding both dispositive and non-dispositive, which makes me think even more that it was going to be a consent case, or was a consent case.

I vacated a default judgment I see there. I've decided to bifurcate the claims between Dependable and Newkirk. That was what I was explaining earlier, my only real recollection is this bifurcation here. the first party lost and was not able to participate in the settlement.

Q These unfortunately are out of order but another one June 5 of 1979, this would have been a matter handled by Judge Nixon.

A Judge Nixon sometimes did pre-try his own cases and this looks like this may have been a case in which -- I say not a particular case, he would handle the whole pre-trial calendar, sometimes he would refer it to the magistrate, sometimes he would not, normally he would. It looks like he conducted a pre-trial in this one and decided to refer it to me.

Q Okay, does the -- and the word "referred" here is used. Was that a term of art such that we can get clear that at least at this point in time it was a referral case rather than a consent case?

A No, I would say referred probably meant consent, referred back then was probably saying he was referring it to me for trial, because cases like that were normally referred with the consent of the parties. That's back in March --

Q -- This would be June of 1979.

A June, okay. Well I would think at that time the parties may have indicated a desire to proceed before me. What would happen is when you had a case that was going to consume a great deal of time on the calendar, those were cases that would certainly be red flags for referral either by referral by consent or referral by a recommendation to the magistrate, rather than take up the whole calendar. But referred should not be -- is not an indication that it was a recommendation type case, it may have been. As I've told you, I don't recall. And the lack of consent concerns me, as to why it was not entered, but looking at the docket sheets, and this is the first time we've been over each one of these, we didn't do that this morning -- it would seem like I took control of the case and that would normally be a case which was by consent. I was proceeding at least with the idea that I had consent of the parties, whether it had been formally entered or not -- apparently it had not.

Q Okay. Do you recall anything about Judge Nixon assigning the case to you for reasons of recusal or for reasons of conflict of interest or because of some relationship he had with any of the parties?

A I don't recall why he referred it to me. I don't have any recollection of that. I think I would recall if he used those words -- looks like I would recall if it had been for some reason, but I don't recall him ever discussing Wiley Fairchild or Fairchild Construction or anything prior to all this occurring later in the '80's.

Q I understand.

A I have no recollection of discussing that was the reason. More than likely it was because of the fact that I handled the sewage case in Waveland and had perhaps become an expert in sewage. It had taken quite a long time to try that case, I think that was maybe one of the reasons I was referred that case in addition to the fact it was a long nasty dog case, a non-jury -- I seem to get a lot of those.

Q All of those reasons would make it very attractive for the judge --

A Make it very attractive to refer to someone else, that's exactly right.

Q Okay, and then directing your attention to the Deputy Clerk sheet that reflects that you actually began the trial of the case in August of 1979, you've mentioned that to us.

A Yes.

Q And that aside from the judgment entered against the first defendant, the other parties settled out.

A That's right. I don't recall whether or not -- what part I played in the settlements after the initial opinion, whether or not I played an active role or whether they did it on their own. I do recall they asked for some time after I decided against the first defendant. What role I played in it, if any, I don't recall.

Q Okay. And then showing you a disbursement order that's dated the 29th of August of '79, and it was filed in October of '79 that reflects the settlement. That settlement disbursement order was signed by both you and Judge Nixon.

A Yes. I don't have any independent recollection as to why he signed this one as well. If it was a consent case, which I'm beginning to believe more and more that it was and just no consent was entered in it, this was a period of time in which there were concerns in not only the Fifth Circuit but throughout the circuits in the country as to whether or not magistrates could enter judgments. And I just began as a practice until it was decided by the courts or resolved by Congress through an enactment which gave specific authority for magistrates to try consent cases and enter judgments --

the main thing -- it was not the trial of the case, it was whether or not a magistrate could enter a judgment. I began getting a district judge, not necessarily Judge Nixon, but Judge Russell if the case was assigned to him or Judge Cox if the case was assigned to him, getting their approval on as much as possible. That could be very well the reason I got his approval on this disbursement. I do not recall discussing the settlement with him and in all probability he simply signed it based upon my bringing it in to him and saying this is the settlement of this case that you didn't want to try. But I have no independent recollection of why I did that, but that was probably the reason.

If this was a referral case; that is, a referral for a recommendation, then I would have gotten his approval because I did not have consent to finally resolve the case. So if it fell into the recommendation category, that would be the reason that I got his approval on it, because he would have been the ultimate one to have entered the judgment in the case.

So those would have been the reasons I got his approval; if it were a recommendation case, because he had the authority to enter the final judgment, final approval; if it was a case involving a consent because of the status of the law at that time.

Q Okay, and then I note an order of dismissal with prejudice with regard to the case, as concerned Fairchild Construction Company dated January 30 of 1980, that was again signed both by you and by Judge Nixon.

A That would be based on the same reasons -- same explanation. If it was consent, then I was doing it because of my concern about magistrates entering final orders or final judgments under the law then. If it was a reference, it would be in order to make sure we had the district judge's signature on the document which dismissed the particular party.

Q Judge, I just have a few more questions. If I could ask you about the practice in the District, both your personal experience and what you observed --

A Let me add one thing. In handling this case, I doubt very seriously if after perhaps the pre-trial and the motions that Judge Nixon heard and evidently decided, that he had any connection with the case whatsoever, just based on what I've seen here. It looks like to me that I handled all after the pre-trial and the case was referred to me for whatever reason, I think by consent, that I probably handled it all. I doubt if I even discussed the case with him after that because that was -- normally when a district judge got rid of a case, they never wanted to hear it again. That's not just Judge Nixon, that was Judge Russell and Judge Cox as well. So the approvals there would probably be based upon the fact that I had been employed by him for almost nine years, ten years at the time, and he had confidence that I wasn't going to put anything in front of him that wasn't what he should sign.

And if it was a consent case, as I said, it was simply to overcome the concern about magistrates not being authorized to enter judgments which were -- which was at least a prevailing opinion by some circuit court judges at the time.

I did want to add that and I guess we can move on.

Q So I gather the bottom line here is that in your recollection and based upon a review of the record here, that after some preliminary pre-trial motions that were dealt with by Judge Nixon, that you took up the case for one reason or another.

A After that June where it says referred to Judge Roper, I would think at that point in time he had probably no dealings with the parties, no dealings with the attorneys and no dealings with the case other than something I may have brought in for him to sign to make sure that we had a district judge's signature on an order of dismissal or on a judgment -- that would be my thought, for the reasons I've indicated; in order to make sure it was a valid judgment in case anything ever came up about it on appeal.

Q Okay, and that would be based -- just to clarify -- as well in part if it were a recommendation case, the fact that he had dealt with you for a number of years and --

A Oh, yeah --

Q -- and you resolved the case essentially.

A That's correct.

Q Okay, let's --

MS. NAUGHTON: Could I ask something?

MR. KEITH: Sure.

BY MS. NAUGHTON:

Q What I'm not clear on is did Judge Nixon sign the ruling on the summary judgment motion?

A I don't know. I assume he did.

MR. KEITH: On some of them, yes.

BY MS. NAUGHTON:

Q Was that before it was assigned to you?

A He should have, before it was assigned to me, he should have handled all the dispositive motions. I noted a Deputy Clerk sheet indicating he actually heard a dispositive motion and decided it, but that was before the pre-trial in June of '79. Up until that time, he should have heard all the dispositive motions and decided them.

Q Okay, and a motion for summary judgment, for the record, is a dispositive motion;.

A Yes; motion for summary judgment, motion to dismiss -- that would be about it. Actually on a settlement, it was not even necessary for his signature but I was perhaps being overly careful if it was a consent case, since it was kind of an involuntary dismissal of the case. It was probably me being overly cautious because I did not want to go through all of this and then have the case come back because it had a magistrate's signature as opposed to a district judge. Thank goodness, Congress remedied that situation by an Act authorizing us to do it, but at that time it was not specifically authorized for magistrates to enter judgments.

BY MR. KEITH:

Q And that was a concern that the judges had as well?

A Oh, yes, because we had gotten a case back, gone through a whole case and then gotten it back because of that reason. There had not been a formal consent in that particular case. It was a nationwide concern, not just this district. That was one of the things the precipitated the Judicial Conference seeking action ultimately getting Congressional approval of an Act which specifically set forth exactly how you go through consents, exactly what the magistrate can or can't do in regards to trial of cases and entering judgments. Those were some of the things that brought about that particular Act.

Q That comment leads me to questioning a little bit more about that last order of dismissal, which is dated January 30 of 1980.

A I don't know when the Act went into effect. It could be that since this case was still -- it was resolved at a time that it was still in question, that we continued the practice in this particular case. That would be my thought on it. Since we began signing them jointly in '79 before the Act went into place, that we continued that just to finally close out the case.

Q And the other possibility would be that for one reason or another Judge Nixon still had some supervisory authority over the case.

A If it was a referral, he would have at least de novo supervisory authority to hear it, but as I say, it is my -- belief -- and I don't have any independent recollection of the case other than what I've said -- it's my belief that he probably had absolutely nothing to do with the case except for me to walk in and say this gets rid of this case, this is another case to finally resolve the case that you referred to me, and he simply signed it based upon my representation to him that we needed that approval either for the fact that it was a consent case which began at least while the law was uncertain or it was a referral case for a recommendation which he still had some supervisory power. But he did not really exercise that much supervisory power regardless of whether it was consent or referral. By that time, as I said, I had worked with him for ten years and he pretty much had confidence in what I was doing.

Q Okay.

A If he didn't I guess he would have discharged me.

Q I have just a few more questions for you, Judge.

A All right.

Q With regard to the problem of recusal in cases that's in practice here in the Southern District, what can you tell us about that? At what stage in the proceeding is that usually handled --

A Once you're aware that there's a conflict, you need to take some action, either bring the attorneys in and discuss the conflict with them and see — if it's a discretionary type recusal, some are discretionary and some are not. Or you need to certainly bring it to the attention of the parties if you're going to exercise your discretion to keep the case. Even if you're going to recuse yourself, it's the usual practice to discuss it with the attorneys. And it's supposedly done by contacting the chief judge at the time -- up until I think around '82 or '83, whenever Judge Russell took senior status, Judge Russell would have been the chief judge, so they contacted Judge Russell and Judge Russell would have assigned another judge to the case.

As we talked about earlier though, there was only one other judge to whom the case could be referred besides the chief judge himself, so it perhaps was done somewhat less formally. The judges divided the cases among themselves throughout the whole district and that meant they were together on the coast at times, they would have lunch together, it could be done over the table or it could be that one judge had a recusal case -- two judges had it and they just swapped and told the chief judge they were swapping. It was just handled by the Clerk's Office by a shifting of letter designations at the end of it. There was no formal procedure but the chief judge would normally be the one who decided who would get the case, either he was going to take it or he would give it to the other judge.

Q Do you recall any cases in which Judge Nixon recused himself, either cases that you ultimately handled or cases assigned to the other judge?

A The two that came to my mind when we were discussing it earlier, I recall there was a case involving Horn Island, which there was a number of Biloxi residents and Gulfport residents who had purchased property out there. It was not a condemnation case as such because the United States contended that there never was any title passed to the State of Mississippi and therefore the State of Mississippi had no authority to give valid titles to individuals. So as I recall it, the district judges felt they should recuse themselves in that case and ultimately it obtained the services of Judge Clark, Charles Clark, Chief Judge, to try the case. I was preparing the case for trial, Judge Clark ultimately assigned it to me, I obtained consent of all 400 parties involved, which was a task in and of itself. We began trial of the case and settled it after a week of trial or two or three days of trial.

Q And the reason for Judge Nixon and the other judges recusing --

A They knew a number of the landowners, as I understood it.

I believe Judge Nixon also recused himself in perhaps one or both of the cases involving Bankamericard and Mastercard because it was ultimately determined that he was a member of the class in one or both of those cases. I'm also a member of the class, one of the few cases I've ever recused myself from. I too had a VISA card during the time in question. I've never recovered anything on it, I might add, but --

MR. KEITH: I think that's all I have, Judge.

Do you have anything, Pam?

BY MS. NAUGHTON:

Q One of the issues in the trial was the Judge's whereabouts on May 14 of 1982.

A Yes.

Q Did he ask you or anybody representing him ask you to try to recreate that date?

A Oh, yes, that's why I testified. He was attempting to recollect in his own mind where he was on a date two or three years earlier, and we were aware from court records that he and I had been together in an asbestos hearing that morning. We were beginning a trial of the first asbestos case in this district, which he and I sat jointly on because I had handled all the discovery. It was a case that was going to set the precedent for all 700 asbestos cases that were pending at that time, and all rulings in that case applied to all remaining 700 cases, that's the importance of the case.

The court record showed that we were together that morning. From the records it would show that I was supervising the deposition of one of the experts that afternoon. But I had no independent recollection of whether he and I got together that afternoon or we talked about the case or I saw him at all. But he did attempt to find something that would show we were together or whether or not -- something that might refresh my memory or somebody else's memory, the staff's memory or secretary's memory or his own memory as to where he was that afternoon.

I'm aware after the trial, after everybody said I don't remember precisely, that there was a dental record that the government had which indicated he had a dental appointment up there that afternoon.

Q I take it you don't recall then him telling you that day he anticipated going to the dentist in the afternoon.

A No. I don't even recall the day. I recall the asbestos trial, I recall vaguely going in and out and trying to resolve disputes with lawyers in a deposition. I don't even recall the morning that well so I certainly don't recall him saying he was going to the dentist and I don't recall him -- whether I saw him or not that day.

And that's basically what I testified to at trial, that I didn't recall that afternoon -- and still don't.

Q Did Judge Nixon or his counsel indicate to you he was sure he hadn't been in Hattiesburg that day, or did you get --

A I got the impression that his best recollection, he thought that he was probably there working on getting ready for probably the most -- the biggest trial of the year, but I don't know that I got the impression that he was absolutely positive. But to his best recollection, I think he thought he was probably there getting ready for the trial. He never mentioned at all anything about recalling anything about the dentist. I think he was as shocked as anybody else when that was ultimately found out.

Q I have another question. In terms of your regular procedure on civil cases at that time, the time we're talking now, let's say early '80's, were there several cases that Judge Nixon would just handle himself all the way through?

A With respect --

Q All the way, from discovery --

A No.

Q You would always handle the discovery?

A Magistrates would always handle discovery. Beginning in '76, there was another magistrate in Jackson, so we divided up the workload, he took Jackson and Vicksburg and I took Meridian and Hattiesburg and down here and then we got a third magistrate and he kind of moves back and forth. But magistrates have always handled discovery.

Now that doesn't mean that a district judge is not going to sign a discovery order, you'll find that. They'll either send it to them and they'll sign it if it's not objected to, as part of a pre-trial they may decide they're going to have more time or a scheduling order -- maybe they'll sign off on a scheduling order. It's discouraged but it does happen.

But as far as 90% of the handling -- 99% of the handling of discovery in non-dispositive matters will be done by the magistrates.

Q After discovery is complete, is it unusual for the district judge to continue -- to then take the case all to themselves?

A I don't -- I'm afraid I don't follow you. Take it for trial?

Q Yeah. After discovery, would it be unusual -- what I'm trying to get a fix on is -- let's say an average personal injury type case --

A Yes.

Q Would it be unusual for the judge to take over that case himself through -- after discovery, through dispositive motions and --

A No, that would be normal. He would handle dispositive motions right on up through trial and he would hear in limine motions not considered -- they're normally heard by the trial judge in the case. It would only be when the matter is referred to a magistrate that you would have the district judge perhaps back off a little bit.

Q Okay, so absent consent and absent referral, the judge would take it for himself.

A Oh yeah.

MR. KEITH: And personal injury cases, you know, either diversity of Jones Act, would be cases that the federal judges would normally handle themselves.

THE WITNESS: Yes. Now one thing that you may run into and that is we had joint calendars. This was a special setting, this case we've been discussing, but many times the magistrate would sit with the judge during the trial calendar and the judge may have heard everything up until 30 minutes or an hour before trial and because he can't finish a case or can't get to that case, the parties say we've got our witnesses here, we want a trial, we'll consent to the magistrate, and he takes that case. So you've got the possibility of a consent coming right at the hour before trial, 30 minutes before trial. And that happened a lot.

BY MS. NAUGHTON:

Q So you literally would sit with him while the calendar is being called?

A No, as another judge while the calendar is in progress. It has been the practice and it has worked very well because we've got such a good disposition rate, of there being a magistrate available -- and we still use that practice -- available with the district judge during a calendar. We'll call the docket, some cases will have already entered consents, they will have done it in pre-trial or perhaps when the case was filed, so you know which cases those are. The magistrate will begin trying cases in which there has already been entered a consent, and he'll begin other cases, and as the cases fall away, then the magistrate may pick up other cases simply because the parties want a trial during that particular time.

Q I see.

A When I say sit with him, not on the bench with him, but sit at the same time as a part of his calendar, and we'll move to another district judge and sit as part of his calendar. But particularly Judge Russell and Judge Cox and

Judge Nixon, they almost always when they were here in Biloxi, I would be with them; that is, I would be there available to try those cases which the lawyers consented for me to try.

Q I'm still a little bit unclear. Would it be possible for Judge Nixon to have taken any civil case that you didn't know about? In other words, had not worked on -- let's say personal injury or Jones cases?

A Not unless there had been no discovery problems, and there had never been a motion before me, which is possible I guess, but not likely. Lawyers usually disagree on something. It wouldn't be possible now because you have to have a scheduling order based upon rule changes, but that has been since then. So magistrates become involved in every case now because we have to enter the scheduling order in the case to determine the amount of discovery. There were not scheduling orders then.

So I guess that's a possible, but highly unlikely. As I said, Judge Nixon did like to pre-try his own cases on occasion. Sometimes we'd have joint pre-trial calendars. In other words, I would pre-trial one and he would pre-trial one, so that may have been what happened here. He may have pre-tried that one and I would pre-try another one.

Q Off the top of your head, given your familiarity with the civil calendar, can you think of any other cases where either Wiley Fairchild or the W.R. Fairchild

Construction Company was a party in a case before Judge Nixon? And I realize it's off the top of your head.

A Yeah. I cannot think of any Fairchild cases. There was a Fairchild case about some bumpers one time back when I was a law clerk, but I'm not sure it was this Fairchild.

But the name Wiley Fairchild was simply not one that was familiar to me until all this began. Maybe it should have been --

Q He's a fairly litigious person.

A Yeah. But as I said, the only other Fairchild I recall involved some bumpers years -- I'm really reaching back, 20 years almost, and I don't event remember -- it involved the chrome that came off some bumpers and I don't remember anything about it, but I do not recall knowing about Wiley Fairchild or anything about him until all this occurred. And I simply did not recall he was a part of this case we've been discussing until you brought it to my attention today. It was never discussed with me by anyone.

Q Let me ask you this general question in terms of the investigation that the Department of Justice did and eventual trial and so forth.

A Yes.

Q Was -- did you feel that there was anything untoward done by either the FBI, the Department of Justice or counsel for Nixon in terms of your testimony and your participation in a trial that should come to the attention of the Committee, that you feel strongly about.

A As far as me personally, no, I didn't feel that way. I was not involved with it except for this date in May, the fact that I was with him that morning and it was a case on which we had been working for a considerable period of time together and tried for the next -- beginning that Monday for I think three solid weeks. But I did not find that --

Q Did you find pressure from either side to try to get you to say --

A No, not really. It was, you know, certainly disturbing that I went up there and had to testify that I don't know -- the government had the date, but I'll take them at their word they didn't know it.

Q I think they probably would have used it.

A It sure would have saved a lot of time.

Q Is there anything else in terms of the investigation or in terms of the question that's posed to Congress now, which is Judge Nixon's fitness to remain on the bench, that you think would be of importance to our Committee in taking back to Washington?

A Well as I said, I know nothing about the facts of the case except what you already know, that is what came out at trial and has come out since trial, but it would seem to me that the trial was conducted in an atmosphere of tremendous sensationalism. There was unbelievable coverage almost every night and I at the time had a great deal of doubt as to whether or not a federal judge, regardless of the publicity, could get a fair trial by a jury. I don't mean that a jury didn't attempt to be fair, I think they did, but I think -- so many times I worry -- I've tried so many jury cases and I worry about the jurors who say nothing, they're holding something back. Since there was so much publicity, so much sensationalism regarding this trial, I'm concerned that some of the jurors may well have decided the case long before it began in their own minds, and perhaps even unconsciously. That's because of my own experience with jurors when there's a great deal of publicity about certain cases.

But Judge Nixon certainly was convinced, because he had given so many years to the judicial system and because he was a native of the area, that he wanted to be tried by a jury. I'm not sure -- and I don't think he probably was tried by his peers -- I'm not sure a federal judge can be tried by his peers. I guess that's the concern I had as to a judge who had made some extremely unpopular decisions at one time or another regarding school cases which I was a part of, regarding other voting rights cases. So I have concern as to whether or not the jury itself, perhaps even unconsciously, was perhaps prejudiced against him.

I have concern about the trial judge, I understand he's deceased now, but at least the part of the trial I saw, he seemed to not be that aware sometimes of everything that was happening. I know he was elderly, I know he was on dialysis. I did not see all the trial, but after I testified I did see some of it and it concerned me as to the trial judge's reaction to questions and reaction to objections.

I was concerned about the fact that the actual conviction took place on two perjury counts. It seemed to me at least, and this is just my own personal opinion, that Judge Nixon was convicted more on what he did not say perhaps as opposed to what he did say. Maybe in retrospect I'm sure he wishes he had said everything about the conversation, whether he considered it a discussion or not -- and we won't get into that -- whether he -- I think in his own mind he did not feel he had committed perjury before the grand jury, but at the same time it concerned me that he would be cleared on gratuity charge, be cleared on one of the perjury charges and then be convicted on a perjury charge on something that was not a crime as such, at least he was not convicted of that crime. That has been something that has always worried me.

I've been concerned also about the fact that on appeal the entire Fifth Circuit save two new members recused themselves, so he was limited -- it wasn't a draw of judges, he had two relatively new judges and one judge from another district. I don't think he even got a hearing en banc, you've got 15 judges or so and they all recused themselves again. So it bothers me about the appeal process, as to whether or not as a normal citizen you would certainly -- not being a judge who knew all the Fifth Circuit judges and knew them sell, that he would have had a much, I guess possibility of having a more impartial review and not narrowed it down to those who actually decided it on appeal.

So -- and I guess it bothers me too that all the other principals including the son who was alleged -- I assume he's guilty since he's pled guilty -- of smuggling operations, have not been punished that much. Fairchild I think spent six months in a halfway house or even less time, I'm not sure, because of a foul up in the sentencing. Bud Holmes didn't spend any time and some of the other individuals, at least I'm told, were not prosecuted for cooperation. I have no personal knowledge of that.

It bothers me that Judge Nixon, who seemed at least peripherally involved in the whole Fairchild case and how it got from state court -- from federal court to state court, he was not involved in that at all, but one conversation one night when he and the attorney had been drinking and he freely admits that, that he would be the one who has now suffered not only a total loss of reputation of an extremely good jurist, excellent jurist, one of the very best, and also to be incarcerated for several years.

So I guess trying to put aside my friendship for him, respect for him as both a judge and a man, I kind of believe he's been punished enough. And then to be impeached now, which after 20 years of service and at age 60, there is no retirement, nothing, he's been disbarred, so there's no practice of law as such that's on the horizon. I think maybe it's perhaps kicking a man when he's down too much. And I'm not sure that he's -- I know in his own mind he feels he's not guilty of perjury, he didn't feel like he in any way perjured himself. It seems awfully difficult to find a man guilty of perjury on a statement that -- one of the statements that he tried to write himself.

That's just personal observations. It's not based on my knowledge of anything that happened except what I've seen and what I've read since then. But I have problems with now having him to go through an impeachment and be impeached, tried by the Senate and disgraced further, cut off from any future benefits as far as any retirement. If it was -- I think Congress is about ready to pass a Rule 20, but they may not. I think Judge Nixon is 60 now. It troubles me that someone who gave up a practice of law which as I understand -- I was not here at the time -- I understand he was one of the most successful plaintiff lawyers on the coast. He gave that up for a $40,000 salary. I do know he's an extremely dedicated judge, he takes his work very, very seriously. He is one of the very best at dictating opinions into the record, being extremely thorough in what he says.

He's also a very private individual though. I think that's one of the reasons that got him into trouble. He doesn't like to discuss his affairs too much. Perhaps maybe was a little embarrassed about the situation with Mr. Holmes, but I don't think he ever intended to perjure himself in any way, not that he did -- I'm not convinced that he did.

Q When you mentioned the statement that he made in grand jury that he wrote himself. What made you say that he wrote it himself?

A That's my understanding, I don't know.

Q Do you know where you got that understanding, was it your conversations with him?

A I don't recall. I just don't know where I got that understanding. I guess it just sounded like something he might say, I'm sure he played a part in it. I know at the time he had not employed Mike Farrow -- that was later.

Q Right.

A I think he had Bill Goodman at the time. I don't have any personal knowledge whether he wrote it himself or not. But when he began to discuss his mother and what happened to her, that just sounded like something he would say.

Q When -- after the FBI interviewed him the first time in April of '84, did he discuss any of this with you?

A No, he didn't. I wish he had, I would have advised him differently, but he did not. The only thing he discussed with me was there wasn't anything to it, that he had done nothing wrong, he did say that. He didn't see that anything would happen because he hadn't done anything wrong. He's never at any time since it started, as I said I saw him on certainly a weekly basis until he left, felt like he had done anything of a criminal nature. Certainly he has regrets as to how it was handled, what he did and said, he wishes he had -- he could go back and undo the hand that's already written, but none of us can do that.

I do know that he does not feel that he has committed any crime and has maintained that position. But it's difficult for him to understand, and I think the public, a great deal of the public here as well, to understand how a man can be cleared on a charge of gratuity. It seems like maybe that was a problem, the whole trial seemed to be focused on the gratuity and did he get these leases in return for some type of favor and it was decided he didn't. And perhaps too little attention was placed on the perjury. I think it was perhaps felt that if that fell everything else would fall with it. And that was obviously not what happened.

I worry about too a jury getting back and you have no idea what a jury did and we'll never know because the rules don't permit you to ask them, but as to there being some disagreements and the jury feeling like well, he's certainly guilty of some improprieties and we'll just convict him on the perjury charges, the jury not realizing the ramifications of that, that a conviction on perjury to him is just as bad as far as the consequences as a conviction on the principal charge.

I think if -- I did not hear the final arguments, but -- so I don't know what was said by defense counsel, but I'm not sure how much he dwelled on the consequences of if you find him not guilty on the gratuity, you ought to go forward with the perjury -- I don't know, I didn't hear the final argument.

BY MR. KEITH:

Q Did the Judge ever talk with you about the facts of the case, did he talk with you about what happened that night in the phone conversation with Fairchild or talk about his relationship with Holmes at all?

A No, not that much, except to the extent of what he said on the stand. I heard his testimony. That was really the first time I had heard a full account. He didn't talk about it that much other than to say that he was not guilty of it.

It has been extremely hard on him, his family -- I don't know how his wife has survived. She's got five children, two from a prior marriage and five by this marriage, one of his -- of his by this present marriage. She was previously married, so I guess we've got seven children altogether, and it has been very difficult on all the children. Of course I knew the first wife, he was still married to her when I first started working for him. I know Barbara quite well also, and it has just been an extremely trying time for him.

I know he's gotten a lot of support from local lawyers and from friends and I know that has helped him, but it just seems to me that there reaches a point in time when enough is enough. I don't know what Congress is going to do but I would certainly hope they would feel like this man has been punished enough, and can get on back and at least regain some of the reputation that was so excellent.

When I first started, I heard many judges in the area feel like that perhaps he was even a candidate at one time for the Supreme Court and certainly he had the mental capacity to do that. He was offered and turned down a Fifth Circuit judgeship I guess about five years ago. He decided he preferred to stay in the courtroom. When I say offered, I mean offered through the Senator, the Senator was willing to do it, the Senate would have had to confirm, but it's just a tragedy and I am --

I will not repeat my concerns about the entire procedure as far as the trial and what occurred, but I just feel like enough maybe -- he may have been punished enough for what I don't -- I'm not even sure was a crime, it may have been certainly a lack of judgment, certainly a lack of judgment in not saying everything, but I'm not sure that that was a crime.

I'll end with that, that I just feel like he's been punished enough and his family has been punished enough, and maybe the court has been punished enough. We've had not only the absence of a judge which greatly affects the other judges and what they can do and doubles the load and triples the load. There was a year there when there was not anybody but a senior district judge and I was handling practically everything. We have another judge on now so it's better, but it would be a lot better if we had a full complement of judges.

Also the court itself and the reputation of the court itself, I just would like to see it end and let him serve out his time and come on back and retire.

MR. KEITH: I think that's all, Judge, thanks very much for your time.

THE WITNESS: I appreciate you working with me as far as my time schedule. This has been a hectic day. It's not often though that we get a ten most wanted plus everything else.

MS. NAUGHTON: Thank you very much.

(Whereupon, the deposition was concluded at 11:34 a.m.)

CERTIFICATE

I, William L. Warren, Court Reporter, do hereby certify that JOHN MARLIN ROPER, was first duly sworn to testify the whole truth and, upon oral examination, testified as hereinbefore shown on pages 2 through 54 inclusive, and the same was taken by stenomask and accurately reduced to typewriting under my direction.

I further certify that said deposition was taken at the time and place stated herein and, further, that I am neither kin nor counsel to any party in this action and in no wise interested in the outcome of this cause.

WITNESS my hand this 3rd day of January, 1989.

William L. Warren

William L. Warren
Court Reporter

BEFORE THE COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CIVIL AND CONSTITUTIONAL RIGHTS
U. S. HOUSE OF REPRESENTATIVES

In the Matter of:)	
)	
An Impeachment Inquiry) concerning U. S. DISTRICT JUDGE) WALTER L. NIXON, JR.)	H. Resolution 407 (100th Congress, 1988 Session)

The deposition of JOHN MARLIN ROPER, taken by Counsel for the Committee on the Judiciary, by William L. Warren, Court Reporter, was continued in the Grand Jury Room, First Floor, U. S. Federal Courthouse, Biloxi, Mississippi, on the 20th day of December, 1988, commencing at the hour of 4:31 p.m.

oOo

COUNSEL PRESENT:

PAMELA NAUGHTON, Attorney
PETER KEITH, Attorney
Committee on the Judiciary
U. S. House of Representatives
Washington, D. C.

PROCEEDINGS

MR. KEITH: For the record, this is a continuation of our deposition of Magistrate Roper. We appreciate you coming back to talk with us, Judge.

I understand that we've got some additional materials now concerning that Boam case and you've also had the opportunity to review a consent order and reflect a little bit on it.

Whereupon,

JOHN MARLIN ROPER

was RECALLED as a witness herein, and having been previously duly sworn, was examined and testified further as follows:

THE WITNESS: Yeah, when we were here yesterday, it was my understanding from you that you could not find an order of reference on the docket sheet, and I took you at your word, you hadn't seen it of course, and I'm sure you didn't. But when I arrived back this morning, I asked my courtroom deputy to see if perhaps in our office we had some record to show whether or not the Boam case was a consent case or not, which my testimony yesterday was in the alternative. If it had been a consent case, one thing and I was having difficulty trying to understand why there had not been a consent order entered in the case or at least an order of reference, making it a recommendation case.

My courtroom deputy, examining the docket sheets, did find that on 7/9/79, there had been an order of reference entered in the case with a stipulation of consent to trial by United States Magistrate, and she pulled that from the order book, and I advised you of that this morning and said I wanted to come back on the record and at least indicate that there was a referral of the case to me for trial on July 9, 1979. And that's signed at least by the attorneys for Boam and attorneys for Dependable Insurance and attorney for Magnolia Construction and attorney for Gulfport, and I assume the other parties were going to consent at time of trial, but I see four signatures.

EXAMINATION

BY MR. KEITH:

Q As I understand it, these were the parties in which trial was actually conducted and --

A I think I only conducted trial for Larry Lenoir, as I told you yesterday, Magnolia Construction. It was bifurcated, so after the first part of the trial, the first day, the others began settlement negotiations after that ruling -- that's what precipitated the settlement of everybody else that was involved in the case.

Q So that ultimately, as I understand it, there would have been no need for a consent order for trial for the other parties because they all settled out.

A Yes. They probably though at the time were ready to -- either had subsequent consent orders or agreed to it on the record. I wouldn't start it unless I had at least known orally that I had the consent of all the parties. These are at least four of the parties who signed this consent order at the time of submitting it to Judge Nixon for his order of reference. Of course he has an order of reference on the bottom of it, that's the way we did it then. It's an order that was referred to me for trial in accordance with stipulation.

This is important because it was something that slipped my mind yesterday. I told you of the concern we had at the time of magistrates not being able to enter final judgments, which were appealable. The Circuit Court had had several rulings which said a magistrate, absent specific statutory authority to enter a judgment, could not do so. To avoid the problems that we'd had, the one case that had come back, and concern about others, another type of order of reference was drawn up which basically says specifically authorize -- let me just read the whole thing for the record -- "The undersigned counsel are fully aware of the right of trial of the captioned proceeding before a district judge in the United States District Court for this District and on behalf of their client, do hereby specifically waive trial before the District Judge and consent to this reference of a trial before a United States Magistrate, and specifically authorize entry of a final decision by the United States Magistrate with a judgment in accordance therewith entered by the District Judge, if appropriate, upon review of the proceedings."

So basically what we had moved to is in any consent case, if the magistrate were trying it before a jury, then he would try the whole case; before the judge himself, he would try the entire case, and render an opinion, but the judgment or an order of dismissal if it was ultimately settled, would be at least entered by the district judge also. And that's why I was having Judge Nixon sign the judgment and I think you'll probably find his signature on the judgment of Magnolia, which is the only part of it I decided from a bench decision at the trial on the I believe 7th of September. And the rest of it was settled after that, so that's why I was obtaining his signature in order to have a final judgment or final order in the case that would be at least one which could be appealed from if anybody so desired.

So that was the reason that I was obtaining his signature, is because in this order of reference, which I've made a copy of for you, that was what I was required to do.

Now the district judge -- and that was, as I said, not just Judge Nixon, but Judge Cox and Judge Russell as well -- may not have -- they would certainly look at what was brought down, but they understood why it was being done, it was simply to make it a final judgment. In all other respects it was a consent case and we had been doing consent cases for three or four years before that, and the only problem was this concern about entry of the final judgment. So they would sign the final judgment, that would make it appealable, and it would prevent having to go through an entire trial and get it on appeal and they not consider it because they said a magistrate could not enter a final judgment and then you've got to come back and have the judge enter the final judgment.

They did not review the proceedings that carefully, they would basically take our word for the fact that there was a trial, there was an opinion, there was a jury verdict, whatever it may be, and sign the judgment.

Q Let me ask you, was that -- I guess there are a couple of ways of looking at that, was that in part out of deference to you in recognition of the quality of work that you had been doing and your experience in these kinds of matters and your wisdom in handling those kinds of cases or was there -- would it also be fair to say that there --

(Brief pause.)

Q Let me rephrase the question a little bit. At this point in time, was there some confusion about whether a district judge had to retain some sort of supervisory authority over a case such as this, and essentially either had to sign off on the papers, and I notice the language in here, "In accordance therewith entered by the District Judge is appropriate, upon review of the proceedings."

A Well certainly he had to make sure that I guess the judgment or the order was in proper form or looked at it, but as far as reviewing it and making a decision as to whether or not the -- he did not necessarily read an opinion if that was rendered or if a jury verdict, he may have a copy of the verdict itself, so the actual statute as I recall was one which authorized only a district judge to enter judgment in a case, and that was the basis of the Circuit Court's rulings that without specific statutory authority, a magistrate could not enter a final judgment in a case.

That was changed with the '79 Act, which allowed the magistrate to try the case and enter judgment in a case. And so that was the -- this language was one that was devised by us to continue with the consent trials, which is what we wanted to do on a continual basis, but at least have the District Judge to look at it to make sure that the judgment was in I guess appropriate judgment form and the jury verdict was there. He would then sign off on it to make it an appealable judgment. But as I said, certainly by then I had been trying cases for four or five years and had been with him almost ten years, so I'm sure that he had confidence that I had tried the case and was not presenting him with a judgment that I had not determined myself to be proper.

Q And it was your hope that through this form of consent, that there would only be ultimate need for one trial, that the parties would waive their right to protest your presence as a magistrate or protest findings of fact or evidentiary matters?

A -- That's what the parties wanted. Most of the parties did not want — in a jury trial, there was really no real procedure for review by the district judge, so this was a form that was really more important for a jury trial. The district judge couldn't sit there for the jury trial, there cannot be a reference of a jury trial to a magistrate, it has to be by consent with final judgment. There can't be any really review of a jury trial. In a non-jury, it's a little different, you can get a transcript, you can review a recommendation.

But that's not what occurred here because this was a form used for consent to trial by magistrate with appeal to the Fifth Circuit, as it ultimately became. But after the Fifth Circuit and other circuits began determining that under the statute, and I forget the number of it, magistrates perhaps could not enter final judgments. Everything was find, if you tried the case and entered the judgment and there was no appeal, it didn't make any difference. But if there was an appeal, they would send it back and say the district judge needs to enter the final judgment. So they would enter the final judgment and then the Fifth Circuit would review it on its merits and there was no problem. And we continued with that for several years until the statute was passed and ultimately declared constitutional.

Q To your knowledge, was there ever consideration by the Fifth Circuit or by some other court or appellate in particular, of the question of whether in this kind of situation, the district judge had to have some sort of substantive oversight of the case, whether -- the question being whether it was his constitutional responsibility, and statutory responsibility, to oversee the case -- I guess that would be part of the --

A I'm sure that's part of their reading into the statute that only a district judge can enter a judgment in a case. It was kind of an anomaly because you also had -- you seem to have -- magistrates had permission to try cases, there was nothing in the law that prohibited him from trying a case and trying it to conclusion, but the problem came in the entry of judgment phase. And I don't have any doubt that that certainly could have been read into it that he had some supervisory power over it.

But the important thing to me though is what you're looking for here and dealing with, is whether or not in this particular case, Boam Company versus Dependable Insurance, Judge Nixon had any influence or had any decisionmaking power regarding decisionmaking aspects to the case after I began the trial, and began working with the settlements, and my answer to that is he did not because I tried the case and I entered the decision, a judgment was rendered against Magnolia on the basis of that, and I don't recall the exact settlement negotiations, how deeply I became involved or whether I even became involved, but they were ultimately settled and I presented it to him.

I have no independent recollection of it, but that would have been almost every case. He never got involved back in a case once I received it on consent. That was -- nor did any other judge, they were delighted to have the magistrate take the case over.

Q Okay, so leaving aside the legal or constitutional question of what supervisory power the Judge had over the case, if we can turn to the actual chronological date in which -- what you described as the decisionmaking power in the case, took place, the transfer from Judge Nixon to you.

A Yes.

Q With the assistance of the Clerk's Office here, I've been able to pull the other orders in the case that were listed on the docket sheet, and I'm just showing them to you. It looks like orders were entered by Judge Nixon in the case on the 3rd of May, 1979, 8th of June, 1979, 13th of June, another one on the 13th of June, the 19th of June again in 1979, and then as I read the order of reference, that is dated July 2, 1979.

A Filed on July 9, the order of reference would be July 9, the parties signed it on the 2nd of July.

Q Okay. I note that there are orders on summary judgment motion signed by Judge Nixon --

A You showed those to me earlier. I have not looked to see exactly who they are against. My thought would be that those motions had been filed earlier and Judge Nixon, as you will recall from looking at the papers yesterday, had conducted the pretrial in this case. Summary judgment motions had to be filed prior to the pretrial, so I would assume that those were matters he had under advisement at the time of pretrial and proceeded to decide those particular summary judgments, since he already had done work on them, had them under advisement.

Q If you remember yesterday, there was the one entry on the deputy clerk sheet "These motions may be decided by the District Judge."

A Yes, it was probably these motions that were being referred to on that particular deputy clerk sheet after I had a conference in the case.

Q Okay.

A And then after that, you should have a judgment entered against Magnolia signed by both Judge Nixon and myself in accordance with the order of reference, that he had to sign the judgment too.

Q That's right, that's dated September 6.

A That would have been at the time of trial I believe. Let's see when the trial was held. We've got a sheet somewhere that shows it, but that's on the 7th of September, isn't it -- a judgment was entered, I believe, since settlement agreements were entered into on that date or maybe thereafter, shortly thereafter.

Q Okay, and I think we went over --

A I think we went over those settlement agreements, but those would have been also signed by he and I. I felt like any final order in the case, either the judgment or the dismissal of claims based upon a settlement, that a case of this magnitude needed to be signed by both of us in light of the reference that I had in the case.

Q Whatever the ultimate legal solution in the question of what your power was vis-a-vis the district judge, if you had both people's signature on it, there would be no appeal issue.

A I tend to be overly cautious. I'm not sure that that was the way to do it, but the district judges to continue trial by magistrates and the only way we saw to do it was to have the district judge at least sign the judgment. And we continued to do it. It did not present as great a problem with non-jury as it did with jury, because there's no way -- the only thing a district judge would have with a jury would be the jury verdict. With a non-jury case, I suppose he could have had a copy of the opinion, but they frankly didn't desire it in a consent case and that's what the parties -- the parties desired direct appeal to the Fifth Circuit from the magistrate's ruling, and they desired to have the district judge to go ahead and enter a judgment so it would be appealable.

Q Okay. Let me ask you just a couple of questions about another case in which you were only briefly involved; that's the case of Seymour --

A Do you want a copy of this consent form?

Q Yes, please. The case of Seymour v. L & A Contracting Company --

A Before we do that, do you have this page of the docket sheet that shows that? I just want to make sure that you've got that. You said yesterday you could not find a letter of reference and I just -- yeah, you've got it.

Q That was an oversight on my part and I'm glad we had a chance to clear that up.

A Yeah, I am too because as I said yesterday, I was trying to testify in the alternative as to if it was a consent case, one way; if it was a reference with a recommendation, something else. And I could not understand, as careful as I am in demand of my staff, why they had not obtained an order of reference in this case and filed it. So I feel better, at least, about the staff I had at that time.

Q Well I'm glad we found it because I had looked -- frankly had been to the Federal Records Center and looked through the pleading file and didn't see one. Then in looking back through the docket sheet, I'm glad that the order books are still here and that you all kept a separate file.

A Yes.

Q Getting back to this case of Seymour v. L & A Contracting Company case, do you recall anything about this particular case -- Mr. Seymour, if I can represent to you, was an individual represented by Joe Sam Owen and Bobby O'Barr, an individual who was severely injured when a slab of concrete fell on top of him, he was working under a bridge that was being demolished. Again, your role in this case was very minor, but I do want to ask you if you recall anything about this particular case.

A I don't recall this case at all. I don't recall anything about it. This is 1980, it's been nine years ago, I just do not recall the case. I would have, nine years ago, been handling all of the non-dispositive or discovery motions in the case, so I should have signed most of the orders for time or discovery orders, but I don't recall any dealings with the case from a pretrial basis or otherwise.

Q The only involvement that I've been able to determine that you had in the case was, as you say, some initial very minor orders granting extensions of time very early on in the case, which I gather would have been your traditional role in taking care of non-dispositive pretrial matters in civil cases.

A --Yes. That's all I see on the docket sheet, is some early on -- some motions, perhaps uncontested motions, handled early on. One for enlargement of time.

Q Right, and I have the orders. The Clerk's Office has been most cooperative in pulling from the order books, the orders in the cases.

A I'm glad we made the determination yesterday these orders were available. All of these look like they would have been uncontested motions. I see the attorneys have even signed off on two of them, approval, so this would not have even necessitated a hearing, this would have been something that just came across my desk for signature.

Q Okay, and let me ask you -- I know you told us yesterday that you had no knowledge up until the time of the publicity associated with Judge Nixon's investigation and indictment, of his financial relationship with Mr. Fairchild and his construction company --

A That's correct.

Q -- but let me ask you again in the context of this Seymour case, do you recall that issue ever coming up, Judge Nixon ever making note of a financial relationship with Mr. Fairchild or his construction company or recusal because of that ever becoming an issue.

A I don't recall anything about the Seymour case, it's a new case to me, I don't know anything about it.

MR. KEITH: Okay, fine. Judge, we greatly appreciate you taking the time to reflect upon our discussion yesterday and to look back over the file.

THE WITNESS: Well fine. I appreciate you letting me come back in because I was concerned about it last night, as to why I had proceeded with a case in which the record showed no written consent and no order of reference because that was not the normal practice at all, and I found it difficult to believe this would have been the one case in which I did not have a consent or an order of reference. So I'm glad we were able to find it. It would have been very unusual for me to proceed without it. And as I said yesterday, sometimes they did come in at the very last minute and even at the time of trial, consents were being filed, and order of references, because of our manner of proceeding, but almost always, hopefully a consent was entered or an order of reference was entered in the case. So I'm glad to find out it occurred in this case as well.

MR. KEITH: All right, then.

(Whereupon, the deposition was concluded at 4:58 p.m.)

CERTIFICATE

I, William L. Warren, Court Reporter, do hereby certify that JOHN MARLIN ROPER, was previously duly sworn to testify the whole truth and, upon oral examination, testified as hereinbefore shown on pages 67 through 72 inclusive, and the same was taken by stenomask and accurately reduced to typewriting under my direction.

I further certify that said deposition was taken at the time and place stated herein and, further, that I am neither kin nor counsel to any part in this action and in no wise interested in the outcome of this cause.

WITNESS my hand this 6th day of January, 1989.

William L. Warren

William L. Warren
Court Reporter

EXHIBIT
Respondent's
Exhibit 68

CURRICULUM VITAE

GEOFFREY C. HAZARD, JR.
Sterling Professor of Law, Yale Law School
Director, American Law Institute

Address: Yale Law School
401A Yale Station
New Haven, CT 06520-7397 Tel:(203) 432-4971

EDUCATION

Swarthmore College, B.A. 1953 (Phi Beta Kappa)
Columbia University, LL.B. 1954 (Columbia Law Review)
Honorary Degrees:
M.A., Yale University 1971
LL.D., Gonzaga University, 1985
LL.D., University of San Diego, 1985
LL.D., Swarthmore College, 1988

PROFESSIONAL APPOINTMENTS

Member, Connecticut Bar, California State Bar
Admitted to practice: Oregon, 1954; California, 1960; Conn., 1982
Practiced in Oregon, 1954-57
Deputy Legislative Counsel, State of Oregon, 1956-57
Executive Secretary, Oregon Legislative Interim Committee on Judicial Administration, 1957-58
Executive Director, American Bar Foundation, 1964-70
Director, American Law Institute, 1984-

ACADEMIC APPOINTMENTS

Professor of Law, Yale University, since 1971; Garver Professor of Law 1976-81; Nathan Baker Professor of Law, 1981-86; Sterling Professor, 1986-

Associate Professor of Law, University of California, Berkeley, 1958-61
Professor of Law, University of California, Berkeley, 1961-64
Visiting Professor, University of Michigan, 1963
Professor of Law, University of Chicago, 1964-71
Visiting Professor, Stanford University, 1974
Associate Dean, Yale School of Organization and Management, 1979-80
Acting Dean, Yale School of Organization and Management, 1980-81
Deputy Dean, Yale School of Organization and Management, 1981-82
Visiting Professor, Universite d'Aix-Marseille, 1982
Visiting Professor, Harvard University, 1983

TEACHING SUBJECTS

Civil Procedure, Legal Ethics, Federal Jurisdiction

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 68

PROFESSIONAL ACTIVITIES

Member, American Bar Association, Committee on Professional Discipline, 1985-
Reporter, American Bar Association Special Commission on Evaluation of Professional Standards, 1978-83
Reporter, American Law Institute, Restatement of Judgments, Second, 1973-81
Reporter, American Bar Association Special Commission on Standards of Judicial Administration, 1971-77
Consultant, American Bar Association Special Committee on Code of Judicial Conduct, 1970-72
Member, Administrative Conference of United States, 1972-78
Advisory Board, Yale Law and Policy Review
Member: California State Bar, Connecticut Bar Ass'n, American Bar Ass'n, American Law Institute, Ass'n Bar of City of New York, Institute of Judicial Administration, American Judicature Society, National Legal Aid and Defender Ass'n, Fellows of American Bar Foundation

BOOKS

RESEARCH IN CIVIL PROCEDURE (1963; Walter E. Meyer Research Institute of Law).
LAW IN A CHANGING AMERICA (1968; editor).
QUEST FOR JUSTICE (1973; editor, American Bar Association).
GOING TO LAW SCHOOL? (1974; editor, with Thomas Ehrlich).
CIVIL PROCEDURE (3rd ed. 1985; with Fleming James, Jr.).
ETHICS IN THE PRACTICE OF LAW (1978).
PLEADING & PROCEDURE, STATE & FEDERAL (5th ed. 1983; with D. W. Louisell and Colin Tait).
MANAGING COMPLEX LITIGATION: A PRACTICAL GUIDE TO THE USE OF SPECIAL MASTERS (1983; with Wayne Brazil and Paul Rice).
THE LEGAL PROFESSION: RESPONSIBILITY AND REGULATION (1985; editor, with Deborah Rhode).
THE LAW OF LAWYERING: A Handbook on the Model Rules of Professional Conduct (1985; with William Hodes).
PERSPECTIVES ON CIVIL PROCEDURE (1987; editor, with Jan Vetter).

REPORTS
(as reporter or draftsman)

Oregon Legislative Interim Commission on Judicial Administration, Vol. I (Judicial Administration), Vol. II (Juvenile Code) (1958)

California Special Legislative Commission on the Insanity Defense, Report (1962).

American Bar Association, Code of Judicial Conduct (1972).

American Bar Association, Standards of Judicial Administration (3 vol., 1974-77).

Legal Services for the Average Citizen, Report of A.B.A. Consortium on Legal Services (1977).

American Law Institute, Restatement Second of Judgments (1982).

American Bar Association, Model Rules of Professional Conduct, (1983).

National Association of Bond Lawyers, Function and Professional Responsibilities of Bond Counsel (1984).

ARTICLES

"May v. Anderson: Preamble to Family Law Chaos," 45 *Va. L. Rev.* 379 (1959)

"Oregon Administrative Procedure Act -- Status and Prospects," 39 *Ore. L. Rev.* 97 (1960).

"Indispensable Party: The Historical Origin of a Procedural Phantom." 61 *Colum. Law Rev.* 1254 (1961).

"Insanity as a Defense: The Bifurcated Trial," 49 *Calif. L. Rev.* 805 (1961) (with D. W. Louisell).

"Death, the State, and the Insane: Stay of Execution," 9 *U.C.L.A. Rev.* 381 (1962) (with D. W. Louisell).

"Early Evolution of the Common Law Writs: A Sketch," 6 *Am. J. Legal Hist.* 114 (1962).

"An Historical and Critical Analysis of Interpleader," 52 *Calif. L. Rev.* 706 (1963; with Myron Moskovitz).

"The Research Program of the American Bar Foundation," 51 *A.B.A.J.* 539 (1965).

"Reflections on Four Studies of the Legal Profession," in *Law and Society, A Supplemental to Social Problems* (Summer, 1965).

"After the Trial Court -- The Realities of Appellate Review," in Jones, Harry W., ed., *The Courts, the Public and the Law Explosion* (1965).

"A General Theory of State-Court Jurisdiction," 1965 *Sup. Ct. Rev.* 241.

"Rationing Justice," 8 *J. Law & Econ.* 1 (1965).

"Limitations on the Uses of Behavioral Science in the Law," 19 *Case Western L. Rev.* 71 (1967).

"The Ombudsman: Quasi-Legal and Legal Representation in Public Assistance Administration," in Sherrard, ed., *Social Welfare and Urban Problems* (1968).

"Challenges to Legal Education," in Sutherlnad, ed. *The Path of the Law from 1967* (1968), pp. 185-194.

"Epilogue to the Criminal Justice Survey." 55 *A.B.A.J.* 1048 (1969).

"Social Justice Through Civil Justice," 36 *U. Chi. L. Rev.* 699 (1969).

"Law Reforming in the Anti-Poverty Effort," 37 *U. Chi. L. Rev.* 242 (1970).

"Legal Problems Peculiar to the Poor," 26 *J. Social Issues* 47 (1970).

"Securing Courtroom Decorum," 80 *Yale L. J.* 433 (1970).

"Res Nova in Res Judicata," 44 *So. Calif. L. Rev.* 1036 (1971).

"Court Finance and Unitary Budgeting," 81 *Yale L. J.* 1286 (1972; with Martin B. McNamara and Irwin F. Sentilles, III).

"Attorneys' Responsibilities and Duties Under the Securities Laws," in Goldberg, Stuart C., ed., *Expanding Responsibilities Under the Securities Laws* (1973).

"The Effect of the Class Action Device Upon the Substantive Law," 58 *FRD* 299 (1973).

"Legal Services in the U.S.A.," 2 *Intern Journ. of Crim. and Pen.* 43 (1974).

"Chancery Procedure and the Seventh Amendment: Jury Trial of Issues in Equity Cases before 1791," 83 *Yale L. J.* 999 (1974) (with Harold Chesnin).

"Law School 'Law' and Sociolegal Research," 50 *Denver L. J.* 403 (1974).

"Rethinking Legal Ethics," 26 *Stan. L. Rev.* 1227 (1974).

"Conscience and Circumstance in Legal Ethics," in Hodges, ed., *Social Responsibility: Journalism, Law, Medicine* (Wash. & Lee Univ., 1975).

"Administration of Supporting Services in the Trial Court," 1 *Justice System Journal* 3 (1975).

"Representation in Rule-Making," in Schwartz, ed., *Law and the American Future* (1975).

"The Tennessee Administrative Procedure Act: An Outsider's Perspective," 6 *Memphis State U. L. Rev.* 143 (1976).

"Standards of Judicial Administration: Appellate Courts," 62 *A.B.A.J.* 1015 (1976).

"The Jurisprudence of Juvenile Deviance," in Rosenheim, ed., *Pursuing Justice for the Child* (1976).

"Requisites of a Valid Judgment," 24 *Practical Lawyer* 35 (1978).

"The Supreme Court as Legislature," 64 *Cornell L. Rev.* 1 (1978).

"An Historical Perspective on the Lawyer-Client Privilege." 66 *Calif. L. Rev.* 1061 (1978).

"Talking to Your Lawyer," *MBA*, May 1978, 17.

"The Legal and Ethical Position of the Code of Professional Ethics," V *Social Responsibility: Journalism, Law, Medicine* (Wash. & Lee Univ., 1979).

"Interstate Venue," 64 *Nw. L. Rev.* 711 (1979).

"Proposed Revision of the Rules of Legal Ethics in the United States," in *Am. Bar Ass'n, American/Australian/New Zealand Law: Parallels and Contrasts* (1980).

"Guidelines for Claims of Privilege," United States v. Am. Tel. & Tel. Co., 86 F.R.D. 603 (1980) (with Paul Rice).

"Rules of Legal Ethics: The Drafting Task," 36 *The Record* 77 (1981).

"Revisiting the Second Restatement of Judgments: Issue Preclusion and Related Problems," 66 *Cornell Law Review* 564 (1981).

"The Lawyer's Obligation to be Trustworthy When Dealing with Opposing Parties," 33 *South Carolina Law Review* 181 (1981).

"How Far May a Lawyer Go in Assisting a Client in Legally Wrongful Conduct?," 35 *U. of Miami Law Review* 669 (1981).

"Will the ABA Draft Model Rules of Professional Conduct Change the Concept of the Lawyer's Role?," Association of the Bar of the City of New York, Third Orison Marden Memorial Lecture (1981).

"The Lawyer's Pro Bono Obligation," in ABA *Proceedings of the Second National Conference on Legal Services and the Public* (1981).

"Do Lawyers *Really* Need New Disciplinary Rules?," 53 *Cleveland Bar Journal* 1 (1981).

"Legal Ethics': Legal Rules and Professional Aspiration." 30 *Cleveland State Law Review* 4 (1982).

"Arguing the Law: The Advocate's Duty and Opportunity." 16 *Georgia Law Review* 821 (1982).

"Judicial Management of the Pretrial Process in Massive Litigation: Special Masters as Case Managers," 1982 *Am. Bar Found. Res. J.* 375 (with Paul R. Rice).

"Overview of the Criminal Justice System," in Encyclopedia of Criminal Justice (1982).

"Competing Aims of Legal Education," 59 *No. Dakota L. Rev.* 533 (1983).

"Why Lawyers Should be Allowed to Advertise: A Market Analysis of Legal Services," 58 *N.Y.U.L. Rev.* 1084 (1983), (with Russell Pearce and Jeffrey Stempel) republished in Italian, Perche Agli Avvocati Dovrebbe Essere Consentito L'Uso Della Pubblicita, 32 Rivista Di Diritto Civile 277 (1986).

"Legal Ethics," in Gillers, ed., *Looking at Law School* (1984).

"Preclusion as to Issues of Law: The Legal System's Interest," 70 *Iowa Law Review* 81 (1984).

"The Technical Expert in Procedure: U.S. National Report," in Nicklisch, ed., Der Technische Sachverstandige im Prozess, VII.Internationaler Kongress fur Prozessrecht, p. 207 (1984).

"Rectification of Client Fraud: Death and Revival of a Professional Norm," 33 Emory L.J. 271 (1984).

"Reflections on the Substance of Finality," 70 Cornell L. Rev. 642 (1985).

"Curriculum Structure and Faculty Structure," 35 J. Legal Ed. 326 (1985).

"The Position of the Supreme Court in the Contemporary Constitutional System of the United States," in Lombardi, Ed., Constituzione e Giustizia Constitutiozionale nel Diritto Comparato (Centro Italiano per lo Sviluppo della Ricerca, 1985)

"Ethical Considerations in Withdrawal, Expulsion, and Retirement [from a Firm]", in Berger, ed., Withdrawal, Retirement & Disputes, Am. Bar Ass'n Section of Economics of Law Practice (1986).

"Court Delay: Toward New Premises", 5 Civil Justice Q. 236 (1986), in Italian, Costo e Durata del Processo in Italia e in U.S.A., XXXII Rivista di Diritto Civile 271 (1986)

"Principles in Legislation," 41 The Record 685 (1986) (Cardozo Lecture).

"Rising Above Principle," 135 U. Penna. L. Rev. 153 (1986) (Roberts Lecture).

"A Lawyer's Privilege Against Self-Incrimination in Professional Disciplinary Proceedings," 96 Yale L.J. 1060 (1987) (with Cameron Beard).

"Triangular Lawyer Relationships: An Exploratory Analysis," 1 Georgetown L. Legal Ethics 15 (1987).

"Professional Ethics, Rules and Conduct," in Conference Papers, ALI-ABA Arden House III National Conference on the Continuing Education of the Bar (November 13, 1987), reprinted 34 CLE Journal and Register 5 (1988).

"Permissive Affirmative Action for the Benefit of Blacks," 1987 U. of Illinois L. Rev. 379 (1987) (David C. Baum Memorial Lecture).

"The Public Nature of Private Adjudication," 6 Yale L. & Pol'y Rev. 42 (1988) (with Paul D. Scott).

NEWSPAPER ARTICLES

"When There are Conflicts Over Conflicts," 10 Nat'l L.J. 13 (10/19/87).

"Realities of Referral Fees Here to Stay," 10 Nat'l L.J. 13 (11/16/87).

"'Good Old Days' Not Always So Good for All," 10 Nat'l L.J. 13 (12/14/87).

"Partners' Problems Also Yours," 10 Nat'l L.J. 13 (1/18/88).

"A Conflict Isn't Always So Obvious," 10 Nat'l L.J. 13 (2/15/88).

"Depositions: Modern-Day Inquisition," 10 Nat'l L.J. 13 (3/14/88).

"Can Lawyers Place Limits on Liability?" 10 Nat'l L.J. 13 (4/11/88).

"Confidences Can Exist for a Client's Client," 10 Nat'l L.J. 13 (5/9/88)

"Rule 1: Keep Your Client Well-Informed," 10 Nat'l L.J. 13 (6/6/88)

"Instructions in Ethics Never Really Stops," 10 Nat'l L.J. 13 (7/4/88)

EXHIBIT
Respondent's
Exhibit 68A

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GEOFFREY C. HAZARD, Jr.
Sterling Professor of Law

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July 22, 1988

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 68A

David O. Stewart
Miller, Cassidy, Larocca & Lewin
2555 M Street, N.W.
Suite 500
Washington, D.C. 20037

Dear Mr. Stewart:

You have requested my opinion concerning possible violations of the Code of Judicial Conduct by Judge Walter L. Nixon, Jr., of the United States District Court, Southern District of Mississippi, based upon certain facts you have stated to me. Based upon those facts, which I recite in this letter, it is my opinion that no violation of the Code of Judicial Conduct was committed.

I. Factual Statement

You have stated to me the following facts as a summary of this case:

1. In 1979, Judge Nixon discussed with several friends the possibility of investing in oil and gas ventures. With seven children, several of whom were approaching college age, Judge Nixon hoped to develop additional income.

2. Carrol Ingram, a friend of more than 10 years, was an attorney in Hattiesburg who represented Wiley Fairchild, a successful oil investor and Ingram's second cousin. Judge Nixon expressed to Ingram an interest in investing with Wiley Fairchild if an opportunity arose. Ingram mentioned that matter to Wiley Fairchild, who agreed to sell Judge Nixon some mineral interests when he had something the Judge might want to purchase. One of Wiley Fairchild's motives was his desire to become friendly with Judge Nixon, an influential man.

3. Fairchild did not really know Judge Nixon before the transaction was agreed to in late 1979 and early 1980. Under the verbal agreement reached at the time, Judge Nixon was willing to invest around $10,000, which he would borrow from the bank, and Wiley Fairchild was to select the mineral interests to be sold. Wiley Fairchild selected the three mineral interests in early 1980 and informed Ingram of the selection; Ingram told Judge Nixon. Fairchild set the price for the royalty interests at $9,500, a price which he has since testified was a "fair

price" though not necessarily the highest price he could have gotten for the interests.

4. Due to miscommunication, Ingram and Wiley Fairchild each thought the other was going to prepare the documentation for the mineral sale. The deeds then were prepared inaccurately and had to be corrected. The royalty deeds were not executed until approximately a year after the verbal agreement was reached.

5. At that time (February 1981), Judge Nixon was prepared to take out a bank loan to pay for the interests. Ingram told him that Wiley Fairchild would be willing to "carry the paper" on the loan, so Judge Nixon signed notes for the amount. The terms of the unsecured notes from the Fairchild Construction Company were set by Wiley Fairchild at 10% simple interest with a three-year term. The interest rate at that time for unsecured personal loans at commercial banks was about 15%.

6. After another year's delay due to confusion over the royalty division orders, Judge Nixon in 1982 began to receive royalties on the investments, two out of three of which were very successful. Judge Nixon paid off the notes on a timely basis and earned approximately a $50,000 return on his investment. Wiley Fairchild has testified that he did not know at the time he sold the mineral interests to Judge Nixon that the investments would pay off so well, and that oil investments are always a gamble. Judge Nixon told Wiley Fairchild in May 1981, after the agreement had been finalized, that he would help Wiley Fairchild if he could, and that if he could not help Fairchild, he would simply tell him so.

7. Also in 1981, Judge Nixon invested in three other oil and gas ventures through other friends that he had contacted. Each of the other three investments was made for $10,000 or less and was financed through a personal loan with a bank, with interest charged at approximately 15%. As of 1984, none of the other three investments showed a positive return for Judge Nixon.

8. In August 1980, approximately six months after the verbal agreement had been reached concerning Judge Nixon's investment, a planeload of marijuana was seized at the Hattiesburg Airport. As the investigation developed, it turned out that Wiley Fairchild's 48-year-old son, Drew Fairchild, had been involved in the marijuana conspiracy. Drew Fairchild reached a memorandum of understanding with federal authorities several months later, under which he agreed to plead guilty in return for cooperating with federal investigators to pay a $15,000 fine, and to accept a five-year term of probation.

9. In the summer of 1981, Drew Fairchild's lawyer, Bill Porter, complained to his friend, Paul "Bud" Holmes, that Drew Fairchild had not paid Porter's fee for the federal plea bargain. Bud Holmes was then the District Attorney for Forrest and Perry Counties, which include Hattiesburg. In response to

Porter's complaints, Holmes called the United States Attorney for Mississippi and received permission to prosecute Drew Fairchild's case on the state level. Although Drew Fairchild had signed the memorandum of understanding with federal authorities nine months earlier, no federal charges ever had been brought against him.

10. Homes then secured a state grand jury indictment of Drew Fairchild in August 1981. Within several days of the state-court indictment, Wiley Fairchild paid Porter's claim for a fee of $7,500.

11. In January 1982, Drew Fairchild entered a guilty plea to the state charge in return for a recommendatin of a $5,000 fine, five years' probation, and his agreement to testify against the pilot of the marijuana plane, Robert Watkins, who was still a fugitive. For thenext three years, Watkins remained at large, and Drew Fairchild was never sentenced.

12. In December 1982, Drew Fairchild's attorney, Bill Porter, began complaining again to Bud Holmes. Porter pointed out that the local judge was retiring and the new judge might well not accept the state's recommendation for Drew Fairchild's sentence. Holmes thereupon moved the state court for an order to "pass the case to the files". This is a procedural device in Mississippi practice which places the case on an inactive status. As a matter of law, any case that has been passed to the files may be reactivated. As a practical matter, few are. The state-court judged signed the order passing the case to the files on December 23, 1982.

13. When the new state court judge took the bench a week later, he pointed out to a newspaper reporter that Drew Fairchild's case had been passed to the files by his predecessor. The resulting publicity, plus the extradition of the fugitive Watkins from Florida to Mississippi at that time, prompted Holmes to move to have the case returned from the files, and it was. Drew Fairchild's case thus resided in the inactive files for 33 days.

14. Within a couple of months of that event, in March 1983, Judge Nixon was holding court in Hattiesburg, where he periodically convened court. When a jury verdict came in early one day, he called Wiley Fairchild to arrange to visit Fairchild's office. Wiley Fairchild, who is a bit of a recluse, had asked Judge Nixon to keep in touch with him, and Judge Nixon called Wiley Fairchild on occasion to chat, mostly about the investment.

15. When Judge Nixon arrived at Wiley Fairchild's office, there were a few moments of pleasantries with Wiley and his brother, Rodney Fairchild. Wiley Fairchild then told his brother to leave the room and told Judge Nixon, with some heat, that Bud Holmes "and maybe Carroll Ingram" were blackmailing him by dragging the good Fairchild name through the mud in the media. Wiley Fairchild emphasized that he did not want any help for Drew

Fairchild, that Drew had always been a problem, but that Wiley Fairchild did not like having his family name "drug through the mud." Wiley Fairchild also claimed that another conspirator was not being prosecuted and that Drew Fairchild should not be picked upon because his father has money. Wiley Fairchild said that if Holmes would prosecute the other individual, Wiley Fairchild would be satisfied.

16. Wiley Fairchild testified that he spoke to Judge Nixon on this subject only because he had heard that Judge Nixon was a friend of Bud Holmes', and that if Judge Nixon had not been a friend of Bud Holmes', he would not have mentioned the matter to Judge Nixon. Wiley fairchild testified that he hoped Judge Nixon would talk to Homes about the blackmail allegation, but that he did not ask Judge Nixon to do so. Judge Nixon got the impression that Wiley Fairchild wanted him to talk to Holmes, but agreed that no such request was made.

17. Judge Nixon was shocked by Wiley Fairchild's allegations and said nothing in response. He had known Bud Holmes for 20 years, and Carroll Ingram for 10 years, and believed the blackmail allegations were "nonsense," although Wiley Fairchild was apparently sincere in making them. Judge Nixon returned to his chambers and worked for a while. The conversation with Wiley Fairchild probably lasted no more than 20 minutes.

18. Judge Nixon previously had arranged to see Bud Holmes on his way back to Biloxi that night to borrow some Hank Williams, Sr., records. Judge Nixon had known Holmes professionally and personally for many years, and Judge Nixon and his family had visited Holmes' home on several occasions.

19. When Judge Nixon arrived at Holmes' farm, he and Holmes had a couple of drinks and listened to some of the records. Holmes received and placed several phone calls while they were together. Although Judge Nixon had not intended to mention Wiley Fairchild's accusations to Holmes, those accusations were "weighing" on him, as he believed they must be the result of a misunderstanding.

20. Judge Nixon told Holmes that Wiley Fairchild said that Holmes was blackmailing him over Drew Fairchild's case. Holmes replied that Wiley Fairchild is paranoid - "he thinks everyone is after his money" - and that the case had been resolved. Holmes attempted to describe the case further to Judge Nixon, but Judge Nixon said he did not want to hear about the case. Judge Nixon was looking through the records when Holmes called him to the phone and said, "Talk to Wiley Fairchild."

21. When Judge Nixon picked up the receiver, Wiley Fairchild told him that he was glad that Judge Nixon had raised that matter with Bud Holmes, and that Wiley Fairchild was satisfied. Judge Nixon said goodbye and gave the phone back to Bud Holmes, who then spoke to Wiley Fairchild some more. Both

Holmes and Wiley Fairchild recall that Holmes said something to the effect that when Judge Nixon asks him to do something, he is glad to do it. Holmes testified that he was trying to make Judge Nixon "look like a hero" to Wiley Fairchild.

22. Although Wiley Fairchild's recollection of the telephone conversation differs from Judge Nixon's, he has testified that it was a very brief exchange and that he concluded from the telephone conversation that the blackmail attempts would end and that Holmes would live up to the previous plea agreement with Drew Fairchild.

23. For two years after these conversations and the phone call from Bud Holmes' farm, nothing happened in Drew Fairchild's case. In 1985 -- approximately nine months after the federal grand jury began investigating Judge Nixon and his investment with Wiley Fairchild -- the state court judge announced that he would not be bound by the prosecutor's plea recommendation in Drew Fairchild's case. Drew Fairchild then withdrew his guilty plea in state court, and his lawyer arranged for Drew to be indicted by federal authorities instead. Ultimately Drew Fairchild received a federal sentence of six months in prison which also satisfied all state charges against him. The federal proceedings against Drew Fairchild were before a judge from the Eastern District of Louisiana who was specially appointed to hear the case.

24. Throughout the period 1980 to 1985, there is no evidence that Wiley Fairchild or any of his businesses had any lawsuits before the United States District Court for the Southern District of Mississippi. Because Wiley Fairchild was a substantial and active businessman, however, it would not have been impossible for such a case to arise.

25. Judge Nixon reported the Fairchild investment and loan on the federal financial disclosure forms for 1981 and all years thereafter.

II. Analysis And Opinion

The actions described above, in my opinion, do not present a violation of the Code of Judicial Conduct. I have considered particularly Canon 2(B) and Canon 5(C)(4) and have concluded that neither provision was violated.

A. Canon 2(B)

Canon 2(B) provides that a judge "should not lend the prestige of his office to advance the private interests of others, nor should he convey or permit others to convey the impression that they are in a special position to influence him". In the circumstances of this case, I believe Judge Nixon's act of relating Wiley Fairchild's blackmail allegation to Bud Holmes would should not be held to constitute lending the prestige of his judicial office to a private interest. The prosecution of

Drew Fairchild was a state court matter to which Judge Nixon had no official connection. Judge Nixon apparently was approached by Wiley Fairchild on a personal basis because he was a long-time friend of Bud Holmes', not because he was a federal judge. Judge Nixon evidently spoke to Holmes on the same basis. What Judge Nixon was "lending" appears to have been his position as a longstanding friend and professional colleague of Bud Holmes and not the prestige of his judicial office. As a state prosecutor, Holmes had no matters pending before Judge Nixon, and normally he would understand the Judge's remark as having been made as a personal friend. Judge Nixon's actions would not allow others to convey the impression that they could influence him in his judicial office, since the events did not involve any of his judicial duties.

My opinion that there was no violation of Canon 2(B) is reinforced by the context of law practice in less urban parts of the country, such as the Southern District of Mississippi. In those areas, social and personal relations between lawyers and judges, and between them and non-lawyer acquaintances tend to be more intimate, relaxed and informal than they are in larger metropolitan areas. In a more urban setting, a judge might s imply decline to hear out Wiley Fairchild's initial grievance or to mention it to Bud Holmes, but in a face-to-face community Judge Nixon's handling of the matter seems unremarkable. Accordingly, there is little basis for an impressiont that Wiley Fairchild was in a special position to influence Judge Nixon. For all of these reasons, my opinion is that Judge Nixon did not violate Canon 2(B).

B. Canon 5(C)(4)

Under Canon 5(C)(4)(c), a judge should not receive a loan from any party "whose interests have come or are likely to come before him." The loan from Fairchild Construction Company to Judge Nixon, in my opinion, does not violate that provision. A judge expressly is permitted to take out loans "from a lending institution in its regular course of business on the same terms generally available to persons who are not judges". Canon 5(C)(4)(b). Judge Nixon took out bank loans for other investments in the same time period and intended to do so for the Fairchild investment. The alternative loan from Fairchild Construction Company, in my judgment, could be regarded as within the range of reasonable and ordinary commercial arrangements for financing such an oil and gas investment, and thus would be acceptable under Canon 5(C)(4)(b). In any event, there is no indication that Wiley Fairchild or Fairchild Construction Company either was before Judge Nixon or "likely" to be before him, so even if the loan were deemed not expressly permitted by Canon 5(C)(4)(b), it still would not violate Canon 5(C)(4)(c).

C. Canon 5(C)(1)

Canon 5(C) (1) provides that a "judge should refrain

from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, exploit his judicial position, or involve him in frequent transactions with lawyers or persons likely to come before the court on which he serves". In my opinion, nothing in the factual recitation above would violate this Canon. Judge Nixon's investment had no apparent connection to any judicial duties or matters before him. The limited role of Attorney Carroll Ingram in the investment arrangements did not, in my view, place Judge Nixon in "frequent transactions" with Ingram so as to violate the Canon.

III. Additional Opinion Based Upon Bud Holmes' Testimony

You have also asked me for my opinion whether the Code of Judicial Conduct would have been violated if the facts above were assumed to reflect Bud Holmes' description of his conversation with Judge Nixon at his farm. In considering this request, I have assumed the same facts that are set forth above, except for the following paragraphs being substituted for Paragraphs 19-21 above.

Alternative Paragraphs 19-21.

19. Bud Holmes has testified that this conversation occurred in May 1982. Holmes stated that Judge Nixon told him he did not want Holmes to do anything improper or against his oath of office, but that Wiley Fairchild had asked the Judge to put in a good word for Drew Fairchild. Holmes understood Judge Nixon to be informing him that a member of the community (Wiley Fairchild) had been asking about the case and did not understand Judge Nixon to be requesting any special favors for Drew Fairchild. Holmes testified that he responded by stating that he had already worked out a plea bargain with Drew. Nixon said he did not want to hear about the case and did not want Holmes to do anything about it. Holmes said he could pass Drew Fairchild's case to the files.

20. According to Holmes, Judge Nixon then telephoned Wiley to report the plea bargain. Holmes claimed that Judge Nixon then thanked Wiley Fairchild for the investment, explaining on the telephone that it was difficult to pay for the education ofhis children. Holmes claimed that he then got on the telephone with Wiley and told Wiley that he was glad to do what Judge Nixon asked him to do and then volunteered that he would pass Drew Fairchild's case to the files.

21. Holmes also claimed that, although Judge Nixon stressed that he was not asking Holmes to do anything, Holmes passed the case to the files seven months later (in December 1982), in part because of his conversation with Judge Nixon. Holmes testified that Judge Nixon never asked him to pass the case to the files, or to do anything, but that Holmes was trying to make Judge Nixon "look like a hero" to Wiley Fairchild.

This alternative version of events does not alter my conclusion concerning the loan to Judge Nixon under Canon 5(C)(4)(c). With respect to the application of Canon 2(B), my opinion remains that no ethical violation is present. When Judge Nixon spoke with Holmes, he spoke about a state court matter with an old friend, and not in a context in which he could be understood to be lending his judicial office to further a private intest. Holmes' suggestion that he could pass the case to the files was neither requested nor invited by Judge Nixon. Moreover, the long delay between the conversation and Holmes' act of passing the case to the files leads me to question whether the c onversation with Judge Nixon properly may be characterized as a cause of Holmes' passing of the case to the files. That long delay, combined with the existence of an immediate cause for the passing of the case to the files (the complaints of Bill Porter in December 1982), leads me to conclude that Judge Nixon's actions did not convey or permit others to convey that they were in a special under Canon 2(B). In addition, the disposition of the Drew Fairchild case in state court would not reflect directly or indirectly upon anyone's ability to influence Judge Nixon in his judicial matters.

Sincerely,

Geoffrey C. Hazard, Jr.
Sterling Professor of Law

GCH/lmo

EXHIBIT
Respondent's
Exhibit 69

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 69

INDIVIDIALS INVOLVED IN CONSPIRACY

1. Redditt Andrew Fairchild

2. Bob Royals

3. Vincente Valentin a/k/a/ Valentin Valence - Purchaser who employed Kenney Hatfield.

4. Timothy James Malone - stayed in room 411 Peddlers and rented Ryder Truck from Dayton Gillespie.

5. Charles Joseph Malone - Arrested-Holiday Inn.

6. Robert Leeman Watkins - Pilot-according to Malone he lived in Tennessee.

7. Macolm David Nathan - Duffy Nathan - Co-pilot of N26835 - caught on board aircraft at Hattiesburg Municipal 8/4/80.

8. Mario Torres - Arrested on board aircraft at Hattiesburg Municipal 8/4/80.

9. Kenneth R. Hatfield - Room 308 Ramade Inn - Employed by Val - arrested.

10. Joseph Torres Rosa - a/k/a/ Joey - a/k/a Joseph Terregrosa identity uncertain.

SYNOPSIS OF PROFFER-CHARLES J. MALONE

August 21, 1981

I have been acquainted with Bob Watkins for about four (4) months. His co-pilot, who makes the larger runs with him, Duffy Nathan (Malcolm David Nathan), introduced me to Bob approximately three or four months ago. He knew Drew Fairchild before I did and was familiar with the Hattiesburg Airport. I know him to be the pilot of the particular plane busted in Hattiesburg, a 404 Cessna Transport. Duffy had known Drew Fairchild through his step-brother, Buddy Yochim, in Sarasota, Florida. It is my understanding that Buddy Yochim was busted in Miami for Possession of Cocaine and Duffy Nathan has been associated with smuggling for the last ten or twelve years. He is a parachute jumper and has been around planes a great deal. He was never really basically involved in smuggling until he and Drew agreed that he should find a pilot and a plane because Drew had a airport.

In April or early May of 1980, I was approached by Duffy Nathan to go to Hattiesburg and meet Drew Fairchild. Duffy, at that time, was making arrangements to get a plane to fly a load of marijuana into Hattiesburg. I met him at the second light in town at the Stop and Shop or Little Mac. Duffy flew into town and Bob Watkins came in a A-18 Beechcraft. That night we unloaded the seats and topped off the fuel at the Hattiesburg Airport. Bob Royals was going to be present when the plane came in the next day supposedly loaded with marijuana. However, Bob Watkins, Duffy Nathan and I went to the Ramada Inn. We could not raise the money to pay for the marijuana in Jamaica so the deal was cancelled. Bob Watkins and Duffy flew the plane back to Sunny South Aviation in Orlando and I picked them up. They parked the plane and I took them to the hotel.

Approximately three weeks later, I drove to Hattiesburg again. Bob Watkins and Duffy Nathan flew in with an airplane. They had some buyer in Hattiesburg. They refueled the plane at the Hattiesburg Municipal Airport with Drew Fairchild and Bob Royals. They flew to Jamaica and I remained in Hattiesburg for ten days waiting for them. But the weather was bad and they abandoned the airplane in Jamaica (Duffy lived in Sarasota and Bob lived in Tennessee).

Approximately two weeks later, Bob Watkins and Duffy Nathan left in a DC-3 for Colombia. They crashed in Labelle Henry County, Florida and were arrested. While in prison, they met an individual named "Munchy" who introduced them to Mario Torres. Mario helped make arrangements for N26835 with Duffy Nathan and Bob Watkins came from Houston to Miami. He borrowed a Chevrolet from a friend named "Val" in Miami and drove to Mario Torres' house in West Palm Beach. On July 26, 1980, we went to Mario Torres' house on Springfield Road in West Palm Beach. Duffy Nathan and Bob Watkins were present as well as Mario's wife, his interpreter "Munchy", and Jose, a supervisor at Topard Flying Service in West Palm Beach. Jose made the arrangements to steal the plane. Duffy and Bob stayed at the Airways Motel in West Palm Beach the night of the 26th. They came to Hattiesburg at eleven o'clock Sunday morning and stayed at the Peddlar's Inn.

I discovered upon arrival Monday that Bob and Duffy had called from the airplane requesting Drew Fairchild. Apparently, they had requested a hangar but I understand that Drew Fairchild demanded noon Monday that the plane be taken out of the hangar because it attracted too much attention. On Monday, Bob and Duffy flew the airplane to Laurel and I understand that Drew went to Laurel and picked them up and on the way home, he drove them by the storage facility or house rented for marijuana in the north area of Hattiesburg. It is located three or four miles north past the intersection of Highways 49 and 59 and you turn right at the sign of Mack's Fish Camp, then another right at Mack's Fish Camp, then take the first left at the top of the hill which is a half mile past Mack's Fish Camp and a left at a quarter of a mile to a block house on a hundred acres of land where there is a green block house. One of the bedrooms in this house was completely empty and one of the windows was sealed with silver tape. Apparently, Drew procurred the house.

Before the plane was flown into Hattiesburg, I called Drew personally and told him that the plane was coming in the next day. I called him at his residence (#544-4179). I called him from the pay phone at the Airways Motel in the West Palm Beach area.

Bob and Duffy stayed at the Airways Motel on Belverdere in West Palm Beach the night of the 26th under the name of Clint Whitehead. Mario Torres came by and took them to the Beckett and Tillford Air Service in West Palm Beach International accessible by the entrance on Southern Boulevard. Jose told them to come and park. Jose had called Beckett and Tillford earlier and told them to top off that particular plane. He picked them up in a golf car and dropped them off. They arrived at Hattiesburg Municipal about one o'clock on Sunday. Mario initially had agreed to give me expense money to come to Hattiesburg and to give me ten thousand dollars for expenses for Duffy and Bob, although he failed to do so. I left the Palm Beach area about the 27th of July and arrived in Hattiesburg about 7:30 on the 28th of July, 1980. I went to the Peddlar's Inn first to find Bob and Duffy although I could not find them. Then, I drove to Faughn's and saw Drew Fairchild's car at Faughn's.

He was driving a 1972 Oldsmobile. I had a few drinks with Drew Fairchild. Then, I went to the Peddlar's Inn. Drew basically was nervous about his exposure in this matter. That night I went out to dinner with Bob and Duffy and Duffy gave me a couple of hundred dollars for expenses. He claimed that he only had a thousand dollars left after paying for gas and expenses from Laurel.

Drew Fairchild was aware that Bob and Duffy did not own N26835, which had a value in excess of a half million dollars. Monday, at 12:00, Drew told Bob and Duffy to take the airplane and go to Laurel because they were attracting too much attention. On Tuesday morning, I had breakfast with Duffy and Bob and I returned to my motel, room number 249, at the Knight's Inn and waited until Mario Torres came. Miriam, the interpreter, and Mario Torres flew into Mobile and took a taxi from Mobile to Hattiesburg and arrived at my motel room. I waited with them in the motel for three hours and about five or six o'clock, we went to the Mexican Kitchen with Bob and Duffy. We made a scene there because Miriam refused to eat Mexican food. Then, we went to Faughn's and had dinner. Wednesday morning, I drove Mario from the Knight's Inn to the Peddlar's Inn to pick up Bob and Duffy and after Mario called Venezuela, which was our landing strip in Colombia, I took all four of them to the Laurel Airport. We purchased one hundred and fifty dollars worth of food at the Shell station near the airport. The route was from Cape Hatian to Colombia and then, back to Cape Hatian. After Nathan, Bob, Miriam, and Mario departed for Colombia, I returned to the Knight's Inn and called Drew at his house at 8:30 or 9:00 on Wednesday morning of the 30th. We met at the Holiday Inn for coffee. During coffee, I gave Drew seven hundred dollars, which was an advance of his twenty-five thousand dollars. I understood that he had already been advanced three hundred dollars. Drew's fee for each illegal landing was twenty-five thousand dollars. Drew agreed that he would attempt to procure the storage facility that he had shown Duffy the previous day and he told me to call him that night. I called him that night and he instructed me to meet him on Thursday morning in front of the Katz and Besthoff Drug Store in the mall. Then, we went to Hardees and I gave him five hundred dollars to procure the house. Then, I met him at the Waffle House and I followed him out to the storage house and he blinked his lights and showed me how to find the house.

It was arranged that Bob Royals would be at the airport Thursday night in the event that N26835 came in on Thursday, July 31, 1980. I left Drew Thursday morning and came back to the Knight's Inn. Joey, a buyer from Palm Beach County, Florida, had left a message for me that he was in room # 223 at the Ramada Inn next door. Joey instructed me that he had rented a U-Haul and had hired an individual named Timothy Malone, who was accompanied by Barnes, to meet the airplane on Thursday night. The plane did not arrive. I did not have a hotel room so I stayed July 31, 1980, at the Hampton House. I called Duffy's girl friend, Barbara, at West Palm Beqch and she told me that Bob and Duffy were waiting in Cape Hatian for another delivery of marijuana. She instructed me to call Bob and Duffy in Cape Hatian. I left Hampton House and went to the pay phone at the 76 station and called Cape Hatian and charged it to Duffy's number in Sarasota, Florida. I tried to kill time and I drove out to the storage house. I saw Drew and told him that I did not know when the plane was coming in but I knew that it would not come in on Friday. Bob Royals was riding with Drew. I decided to stay at the storage house on Friday. Bob Watkins,in Cape Hatian,told me to contact Val, who would be coming to Hattiesburg and would give me some money. Val arrived at one o'clock on Saturday. Prior to picking him up, I saw Kenneth's car at the Ramada Inn. It was a black pick-up truck with a white body with horse's heads and ducks painted on it. I picked up Val and drove him to room # 308 at the Ramada Inn, where Kenny was staying. I picked Val back up an hour later. Val told me that he would buy all the products from the airplane and that he would pay Drew twenty-five thousand dollars, one hundred thousand dollars for the airplane, and would pay me twenty-five thousand dollars for my activities here in Hattiesburg. Val planned to sell the marijuana in Slidell, Louisiana. During this conversation, Val told me that he was not really concerned about the load of marijuana coming in on Sunday night because he expected thirty thousand pounds to arrive in Gulfport. Val gave me one thousand dollars for expenses, five hundred dollars of which comprised money to keep the house. Then, on Saturday afternoon, at approximately 3:30, Kenneth drove Val to the storage house and followed me in order to unload the truck loaded with supplies for the individuals in Colombia. They unloaded all the items into the house, including four (4) tires, a gasoline pump, a zodiac boat, garbage bags, and tape for the marijuana. They left about six o'clock to call the individuals in Colombia. The next morning, I called Bob Watkins in Cape Hatian and Miriam informed me that Bob and Duffy had flown to Colombia with Mario to pick up some marijuana. Miriam instructed me to call her sister in West Palm Beach to ascertain the time the plane would come through Cape Hatian. When instructed that they would be delayed, I called Drew Fairchild. Sunday morning, I ascertained that Bob, Duffy, and Mario had departed Colombia and I called Drew Fairchild and instructed him that they were to arrive that night in Hattiesburg. Drew claimed that he would "cover his end". Then, I went to room # 308 at the Ramada Inn and told Kenny and Val to listen to the scanner between eleven and twelve o'clock that night. Kenny and Val decided to wait until Tuesday to purchase the forthcoming load of marijuana. Val arranged to bring sixteen thousand pounds from Colombia and planned that this load of marijuana would arrive Tuesday and would return Saturday. Drew was to be paid twenty-five thousand dollars for each trip. (It would require several trips to bring sixteen thousand pounds of marijuana from Colombia. Drew supposedly was to receive twenty-five thousand dollars for each arrival.

On August 3, 1980, I waited at the Hamilton Truck Stop until midnight and then, came back to the motel. My wife had received a call from Kenny at approximately one o'clock. I walked over to room # 237 at the Holiday Inn to find out what had happened and Bob Watkins called and told me that a D. E. A. plane had come in behind them and that they hitchhiked with Timmy Malone to Timmy's room # 411 at the Peddlar's Inn. I told him that Val was at room # 308 at the Ramada Inn and he hung up and called room # 308. I have not heard or seen from Bob Watkins since then. I returned to my room # 208 and Val called me at # 208 and told me that he was going to the Peddlar's Inn to pick up Bob and that he would leave Hattiesburg. Then, Bob called me at # 208 and told me that he was leaving. Barnes, who stayed in room # 237, asked Timmy to pick him up and they left. Timmy, at that time, was driving a brown pick-up truck with a camper. He had a girlfriend named Sheryl with him. (I had seen Timmy one time previously at the storage house that Drew had rented. He was there with his girlfriend named Sheryl.) Rock, who is a worker, called my room and told me that Joey, Bob Watkins, and Timmy left the airport in a Cadillac which was owned by

Jake Michael Desario. It was driven to a dead end street and abandoned when it became stuck in the mud. Joey drove the car. The car was at the airport merely upon a happenstance, as Joey apparently drove out to ascertain that the marijuana was properly loaded onto the truck.

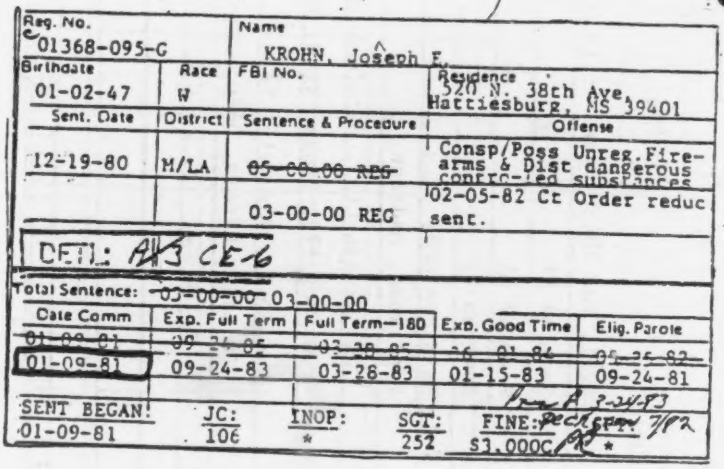
I was informed that Bob Royals waited at the airport on August 3, 1980, for the load of marijuana. I personally don't know if he was there but I understand he was there. When the car was abandoned, Joey apparently hid in the bushes or the grass and Bob Watkins and Timmy hitch-hiked back to the Peddlar's Inn. I did not make any attempt to inform Drew Fairchild of the encounter with the custom agents. I came back to my room # 208 and told my wife to leave town.

Charles Malone outlined forthcoming loads of marijuana coming into the United States to the Gulfport area.

August 21, 1980

Charles Malone turned over motel receipts to Lt. Kelly showing that he had stayed in room # 162 at the Knight's Inn on June 26, 1980. They have the original receipts. He also turned over a Rayborn Realtor business card showing that Malone had rented a house to be utilized to store large quantities of marijuana. He rented the house on June 28, 1980, in the name of Larry Ash.

EXHIBIT
Respondent's
Exhibit 70



Reg. No.	Name		
01368-095-G	KROHN, Joseph E.		
Birthdate	Race	FBI No.	Residence
01-02-47	W		520 N. 38th Ave, Hattiesburg, MS 39401
Sent. Date	District	Sentence & Procedure	Offense
12-19-80	M/LA	~~05-00-00 REG~~	Consp/Poss Unreg. Fire-arms & Dist dangerous controlled substances
		03-00-00 REG	02-05-82 Ct Order reduc sent.

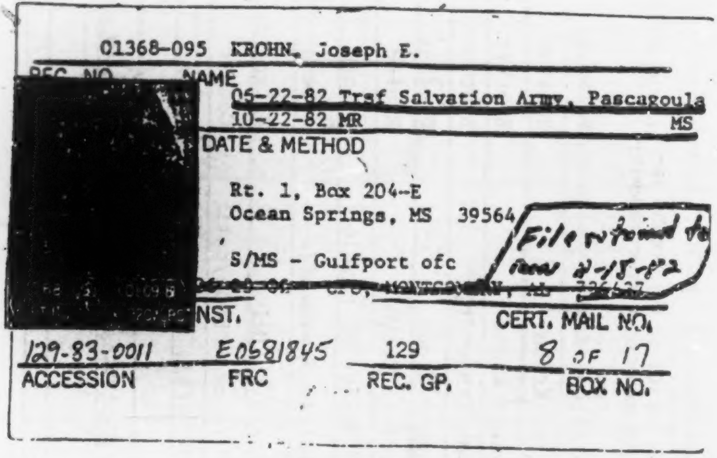
DETL: A3 CE-6

Total Sentence: ~~05-00-00~~ 03-00-00

Date Comm	Exp. Full Term	Full Term—180	Exp. Good Time	Elig. Parole
~~01-09-81~~	~~09-24-85~~	~~03-28-85~~	~~06-01-84~~	~~05-25-82~~
01-09-81	09-24-83	03-26-83	01-15-83	09-24-81

3-24-83

SENT BEGAN:	JC:	INOP:	SGT:	FINE:	
01-09-81	106	*	252	$3,000C	* 7/82



01368-095 KROHN, Joseph E.
REG. NO. NAME

[redacted]

06-22-82 Trsf Salvation Army, Pascagoula MS
10-22-82 MR
DATE & METHOD

Rt. 1, Box 204-E
Ocean Springs, MS 39564

S/MS - Gulfport ofc

~~[illegible] CPO, MONTGOMERY, AL [illegible]~~
INST.

File returned to Recs 2-15-82

CERT. MAIL NO.

129-83-0011	E0681845	129	8 of 17
ACCESSION	FRC	REC. GP.	BOX NO.

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 70

EXHIBIT
Respondent's
Exhibit 71

6TH STORY of Level 1 printed in FULL format.

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September 13, 1981, Sunday, Late City Final Edition

SECTION: Section 5; Page 9, Column 1; Sports Desk

LENGTH: 654 words

BODY:
Georgia Tech Beats Alabama

TUSCALOOSA, Ala., Sept. 12 (AP) - Robert Lavette scored on a 2-yard run in the fourth quarter to give Georgia Tech a stunning 24-21 victory over Alabama tonight.

It was Georgia Tech's first victory in an opening game in 11 seasons. It was a setback for Alabama and Paul (Bear) Bryant, who is seeking to become the coach with the most career victories in college football. His record is 307-79-17, seven victories behind Amos Alonzo Stagg's record 314.

Alabama, a 24-point favorite, led by 21-17 when Georgia Tech started its winning drive at its 20. Two runs gained only 2 yards, but Mike Kelley connected with Ken Whisenhunt on a 54-yard pass play to the Alabama 24.
Kelley passed to Glenn Etheridge to the 12, and Kelley then scrambled to the 5. Two plays later, Lavette scored on a first down. Alabama got the ball twice after that, but Georgia Tech held the first time. On the second, a 50-yard field go al attempt by Peter Kim on the final play fell short.

Alabama (1-1) scored in the first period when Walter Lewis connected with Joey Jones on a 47-yard scoring pass play, and then Kim's 36-yard field goal made it 10-0.

But Jim Bob Taylor moved Tech 70 yards, including passes of 22 yards to Lavette, 6 to Ronny Cone and 18 to Jeff Keisler before Lavette ran off left tackle to score from the 13.

A 39-yard field goal by Kim made it 13-7 at the half, but Tech went ahead by 14-13 in the third period on a 22-yard screen pass from Kelley to Cone.
Alabama moved back ahead by 21-14 on a 4-yard run by Lennie Patrick on fourth down and a 2-point run by quarterback Ken Coley.

Georgia Tech dominated the fourth period. A 28-yard field goal by Ron Rice closed to 21-17, setting the stage for Tech's winning drive.
Purdue 27, Stanford 19

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 71

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 73

EXHIBIT
Respondent's
Exhibit 73

TRANSCRIPTION OF BUD HOLMES' TELEVISION INTERVIEW

Voice-over: Holmes said he had made a deal with Fairchild's attorney, Bill Porter, to hold off on sentencing Fairchild until the pilot of the plane and Fairchild's co-defendant, Robert Watkins, was brought back to Mississippi for trial. He called it a trial tactic.

Holmes: I had a verbal agreement with his attorney that until we could bring in the man that he could testify against, that I would hold up any further proceedings. You know, any, because I wanted Drew's testimony, and so when, when we never did bring the man in, the man hadn't been brought in, his attorney told me verbally that he was going to go back, go into court, file the petition to raise what our verbal agreement was, and that I said, well how about letting me just pass it to the file until we can bring Watkins into court.

Reporter: Well, I think the misunderstanding or the problem that so many people are having with this, is that they cannot understand how other people could have been charged in the case, could have been sentenced in the case, could have been sent to prison in the case, and here is a guy who is from one of the influential families in town, and he seems to be getting off from this thing scott-free.

Holmes: Well, of course, that just isn't the facts at all. The truth of the matter was, that I'm the one who brought Fairchild into the case. The federal government, our local bureau of narcotics, turned the thing strictly over to the federal authorities. I think that he aided and gave a lot of information. And because his name is Fairchild, I'm not going to jump up and be Pontius Pilate and run out and let the public look at how great I am. I'd persecute them all; if he was some John Doe from -- that nobody knew anything about, there'd be no hullabaloo at all about this. But, it seems like, uh, if you happen to be unfortunate, to come from an influential name, as you just said, then y'all want to prosecute him and persecute him and convict him in the news, and now how is the poor guy ever going to have any kind of a fair shot?

Voice-over: Holmes said the 270 day rule guaranteeing a defendant a speedy trial had a great deal to do with his motion to send Fairchild's case to the files.

Holmes: You know the 270 day rule, uh, I have 270 days within which to bring a person to trial. At the end of 270 days in state court, then they can plead the speedy trial, lack of speedy trial, at which point then I'm barred from prosecuting him. In federal government they have a 100 day rule. What that does, that prevents prosecutors from sitting and holding over somebody's head a charge, and let it just linger on and on and on. The person is entitled to have his name cleared, or they are entitled to go ahead and be sentenced and start serving their time. This was strictly a decision on my part that I thought that was what was best for the people, best for the prosecution, and in fairness, to Drew Fairchild.

Voice-over: Donna Allday, News 7.

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 74

EXHIBIT
Respondent's
Exhibit 74

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
AUG 10 1984
CLARENCE A. PIERCE, CLERK
BY __________ DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI

SPECIAL ORDER REGARDING THE GRAND JURY EMPANELED
JULY 18, 1984

It has been called to the attention of the court that public statements may have been made by federal employees regarding the activities and scope of the investigations of the Grand Jury empaneled on July 18, 1984. The intent of Rule 6, Federal Rules of Criminal Procedure, is that the work and activities of federal grand juries be accomplished in secret. The reasons for such secrecy of grand jury investigations are many and of long standing, including the obvious damage to the reputations of totally innocent people that may be caused by idle public speculation as to the nature or scope of grand jury investigations, as well as the possibility of concealment or destruction of evidence, intimidation of potential witnesses or even flight of the guilty. Although this order may be somewhat tardy, the court is determined that there be no repetition of "leaks" regarding the works of this grand jury.

Accordingly, IT IS ORDERED that no federal employee, (including but not limited to personnel in the United States Attorney's office for the Southern District of Mississippi, personnel of the United States Department of Justice, all federal investigative agencies, including but not limited to the Federal Bureau of Investigation), and no person to whom grand jury business . disclosed under the provisions of Rule 6, shall, without special and specific authorization of the court, disclose, publically or otherwise, to any person not authorized by Rule 6 to receive knowledge of grand jury proceedings, any information relating to the activities of the Grand Jury empaneled July 18, 1984, including but not limited to the date, time or place of any Grand Jury session, the name of any potential or actual grand jury witness, the contents of any document produced or discussed before the Grand Jury or intended to be produced before the Grand Jury, or the scope or nature of the Grand Jury's investigations. Any knowing violation of this order shall be treated as a contempt of the court.

While persons called before the Grand Jury as witnesses cannot be bound by this order, the Clerk of Court is directed to deliver a copy of this order to each Grand Jury witness with the information that he cannot be compelled to discuss his grand jury testimony and with the suggestion that each witness consider that his own best interests might well be served by refusing to discuss the fact of his appearance or the content of his testimony before the Grand Jury. Further, the Clerk of Court shall deliver a copy of this order to the person in charge of each federal agency in the Southern District of Mississippi having investigative functions of any nature, whether or not involved with the Grand Jury empaneled by July 18, 1984.

Baton Rouge, Louisiana, August 7, 1984.

John v. Parker
JOHN V. PARKER, CHIEF JUDGE
MIDDLE DISTRICT OF LOUISIANA
Sitting by Designation

A TRUE COPY, I HEREBY CERTIFY.
Clarence A. Pierce, CLERK
By:
Deputy Clerk

Classification Form 10
11-00

DORM G

BACKGROUND INFORMATION

Reg. No. 01368-095

Name KROHN, Joseph E.

Date 2/12/81

	Name (A (C) or (V) denotes approved correspondents or visitors)	Relationship	Age	Married Yes	Married No	Address
1	M&M Alton Krohn	Parents	56	X		Rt 1, Box 204E, Ocean Springs, MS
2	Daniel Krohn	Brother	32		X	Same as #1
3	Kenneth Krohn	Brother	28		X	Same as #1
4	Alton Krohn Jr.	Brother	19		X	Same as #1
5	Stephen Krohn	Brother	25		X	Malstrom AFB, MT
6	Patricia Krohn	Exwife	35		X	Post Road, Madison, MS
7	M/M Robert R. Royals	Firend	41	X		3009 Navajo Cir., Hattiesburg, MS
8	Patricia R. Chauffe	Firend	30			P.O. Box 176, Grosse Tete, LA
9	Theresa B. McDonald	Friend	26			Gen. Del., Rosedale, LA
10	M/M Kenneth Honeycutt	Cousin	27	X		160 Linda Circle, Ocean Spgs., MS
11	M/M Philip H. Graves	Uncle	54	X		521 Clark Ave., Ocean Spgs., Miss.
12						
13	Approved: L. Mc[illegible]					
14						
15						

Dt	Code	Dt	Code	Dt	Code	Dt	Code	Dt	Code	Dt	Code	Dt	Code	Dt	Code
1/19	07	5/30	6	1/24	6,7										
1/[illegible]	[illegible]	7/3	6	2/1	2,4										
2/7	[illegible]	7/5	6	2/7	6										
2/21	6	8/2	7	2/14	11										
3/[illegible]	6	8/[illegible]	6	2/15	6										
3/22	7	8/29	2,1	3/6	6										
4/12	7	9/12	6.	3/7	6										
4/19	10	9/13	7	3/13	6										
5/16	6	9/26	6	5-2	7-9										
5/17	6	9/30	6	6/6	8										
5/24	7	11/11	6												
7/29	6	11/21	16,11												
5/30		12/19	6												
6/4	6	1/3	6												

EXHIBIT NO. D-25 EVID
CAUSE NO. H85-00012(L)
WITNESS —
PAGES 1

FEB 04 1986

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT
Diane Scott REPORTER

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 72

September 16, 1982

STATEMENT OF ACCOUNTS

WALTER L. NIXON, JR.
436-4317
Biloxi, Mississippi

Note Amount	Interest Paid 2/25/80-3/16/82	Principal Paid	Note Balance	Interest Acc 3/16/82-9/16
$4,500.00	473.42	2,026.58	2,473.42	124.69
3,000.00	315.62	1,184.38	1,815.62	91.53
2,000.00	210.41	789.59	1,210.41	61.02

These figures were calculated at the request of Betty Clark in Judge Nixon's office. I gave them to her over the telephone for her records.

Skip

EXHIBIT
Respondent's
Exhibit 72

520

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 75A

DEFENDANT'S EXHIBIT 2D

EXHIBIT
Respondent's Exhibit 75 A

Well name Charles E. Wil GU 28-1 Operator EXXON ORATION Permit No. 2746
Field HATTER'S POND Pool S-T-R S28, 12S, R1W Type

(1980)	OIL/ COND.	GAS	WATER	(1981)	OIL/ COND.	GAS	WATER
JAN.				JAN.	0	0	
FEB.				FEB.	0	0	
MAR.				MAR.	0	0	
APR.				APR.	0	0	
MAY				MAY	0	0	
JUN.	2106	5657		JUN.	0	0	
JUL.	1814	4872		JUL.	0	0	
AUG.	0	0		AUG.	0	0	
SEPT.	0	0		SEPT.	0	0	
OCT.	0	0		OCT.	52289	194207	0
NOV.	0	0		NOV.	51232	186783	0
DEC.	0	0		DEC.	51900	190876	0
YRLY TOTALS	3920	10529		YRLY TOTALS	155421	571866	0
CUMUL. TOTALS	3920	10529		CUMUL. TOTALS	159341	582395	0
(1982)				(1983)			
JAN.	47489	174615	5	JAN.	39112	138271	340
FEB.	52284	178285	0	FEB.	30209	104796	88
MAR.	46325	151040	90	MAR.	32448	112822	235
APR.	18290	65249	14	APR.	32308	103340	397
MAY	37130	127186	100	MAY	33439	110103	568
JUN.	38419	145301	63	JUN.	30850	103071	143
JUL.	42802	171962	413	JUL.	39370	131954	116
AUG.	37271	145688	14	AUG.	42838	146974	543
SEPT.	37825	145223	81	SEPT.	17450	62332	251
OCT.	35807	128182	209	OCT.	33753	134530	382
NOV.	31677	118623	192	NOV.	40026	164532	298
DEC.	34650	123204	204	DEC.	38670	141546	246
YRLY TOTALS	459969	1674558	1385	YRLY TOTALS	410473	1453371	3507
CUMUL. TOTALS	619310	2256953	1385	CUMUL. TOTALS	1029783	3710324	4892

Well name . Operator Permit No. 2746
Field Pool S-T-R Type

(1984)	OIL/ COND.	GAS	WATER	(1985)	OIL/ COND	GAS	WATER
JAN.	[illegible]	125171	[illegible]	JAN.	48437	199937	[illegible]
FEB.	21590	74508	271	FEB.	42319	171398	637
MAR.	33097	78572	382	MAR.	45345	180443	737
APR.	27685	101672	425	APR.	36282	126970	[illegible]
MAY	39404	152175	634	MAY	43377	156394	479
JUN.	41836	164117	699	JUN.	39252	149778	646
JUL.	39193	149303	388	JUL.	38070	145551	621
AUG.	27742	103479	188	AUG.	18738	60773	239
SEPT.	33891	86052	196	SEPT.	22049	73688	246
OCT.	48736	186524	454	OCT.			
NOV.	46565	182740	436	NOV.			
DEC.	51435	198299	499	DEC.			
YRLY TOTALS	430930	1622612	4909	YRLY TOTALS			
CUMUL. TOTALS	1460713	5332836	9801	CUMUL. TOTALS			
(1986)				(1987)			
JAN.				JAN.			
FEB.				FEB.			
MAR.				MAR.			
APR.				APR.			
MAY				MAY			
JUN.				JUN.			
JUL.				JUL.			
AUG.				AUG.			
SEPT.				SEPT.			
OCT.				OCT.			
NOV.				NOV.			
DEC.				DEC.			
YRLY TOTALS				YRLY TOTALS			
CUMUL. TOTALS				CUMUL. TOTALS			

GAS

Utilization	Mcf
Producers field operations FIELD FUEL	2687
Vented to atmosphere Non hydrocarbon gas ACID GAS	[illegible]
Hydrocarbon gas	- - -
Shrinkage 12% CONDENSATE	41765
Others (denote) METER DIFFERENCE	45768
Others (denote) PLANT FUEL	58259
Deliveries to transporter	
Name of company Address	
UNITED GAS PIPELINE CO., 3350 SUNCREST RD., EIGHT MILE, AL 36613	
Total	622,711

CONDENSATE

Utilization	Barrels
Producers field operation	
Others (denote)	
Others (denote)	
Deliveries to transporter	
Name of company Address	
HESS PIPELINE CO., P.O. BOX 332, PURVIS, MS 39475	270,864
EXXON CO. USA, P.O. BOX 60626, NEW ORLEANS, LA 70160	-0-
GETTY OIL CO., P.O. BOX 16070, MOBILE, LA 36616	50
Total	270,914
Utilization of produced water	**Barrels**
Injection by disposal well	
Others (denote) TOTAL WATER PRODUCED	3423
Total	3423

Remarks

Executed this the 23 day of OCTOBER, 1985

Signature of Affiant

State of TEXAS

County of HARRIS

Before me, the undersigned authority, on this day personally appeared L. L. BABBITT known to me to be the person whose name is subscribed to the above instrument, who being by me duly sworn on oath states, that he is duly authorized to make the above report and that he has knowledge of the facts stated therein, and that said report is true and correct.

Subscribed and sworn to before me this ______ day of __________, 19____

SEAL

My commission expires ____________

Notary Public in and for HARRIS

County, TEXAS

INSTRUCTIONS Read Carefully and Comply Fully

This report shall be filed in DUPLICATE with the State Oil and Gas Board on or before the 28th day of each calendar month, and shall be complete as to date covering the calendar month next preceding the date of filing.

In unitized fields, indicate total number of wells utilized in unit operations during the month.

The addresses of the producer, as required on this report, shall be clear and definite as to street number, City, and State.

All volumes of gas shall be reported in Mcf computed at 14.65 psia pressure and 60° F. Do not use fractions of Mcf in this report.

All amounts of condensate shall be reported in barrels of 42 U.S. gallons. Make a separate report for each field or pool. Under Well Status, use the following symbols: (F) Flowing; (P) Pumping; (G) Gas Lift; (SI) Shut In; (TA) Temporarily Abandoned; (NW) New Well; and (PA) Plugged and Abandoned Well.

GAS

Utilization	Mcf
Producers field operations	3433
Vented to Atmosphere: Non-hydrocarbon gas – ACID GAS	74104
Hydrocarbon gas	-0-
Shrinkage 123 CONDENSATE	101,316
Others (denote) METER DIFFERENCE	532931
Others (denote) PLANT FUEL	61591
Deliveries to transporter	
Name of company / Address	
UNITED GAS PIPELINE CO., 3350 SUNCREST RD. EIGHT MILE, AL 36613	
Total	773375

CONDENSATE

Utilization	Barrels
Producer field operation	
Others (denote)	
Others (denote)	
Deliveries to transporter	
Name of company / Address	
HESS PIPELINE CO., P.O. BOX 332, PURVIS, MS 39475	317647
EXXON CO. USA, P.O. BOX 60626, NEW ORLEANS, LA 70160	-0-
GETTY OIL CO., P.O. BOX 16878, MOBILE, LA 36616	50
Total	317747

Utilization of produced water	Barrels
Injection by disposal well	
Others (denote) TOTAL WATER PRODUCED	7776
Total	7776

Remarks

Executed this the 20 day of SEPTEMBER, 1985.

State of TEXAS

County of HARRIS

Signature of Affiant

Before me, the undersigned authority, on this day personally appeared L. L. BOBBITT known to me to be the person whose name is subscribed to the above instrument, who being by me duly sworn on oath states, that he is duly authorized to make the above report and that he has knowledge of the facts stated therein, and that said report is true and correct.

Subscribed and sworn to before me this 23 day of September, 1985

CHRISSANDRIA A. WILLIAMS
Notary Public, State of Texas
My Commission Expires 2-11-89

SEAL

Chrissandria A. Williams

Notary Public in and for HARRIS

County, TEXAS

My commission expires

INSTRUCTIONS Read Carefully and Comply Fully

This report shall be filed in DUPLICATE with the State Oil and Gas Board on or before the 28th day of each calendar month, and shall be complete as to data covering the calendar month next preceding the date of filing.

In unitized fields, indicate total number of wells utilized in unit operations during the month.

The addresses of the producer, as required on this report, shall be clear and definite as to street number, City, and State.

All volumes of gas shall be reported in Mcf computed at 14.65 psia pressure and 60° F. Do not use fractions of Mcf in this report.

All amounts of condensate shall be reported in barrels of 42 U.S. gallons. Make a separate report for each field or pool. Under Well Status, use the following symbols: (F) Flowing; (P) Pumping; (G) Gas Lift; (SI) Shut In; (TA) Temporarily Abandoned; (NW) New Well; and (PA) Plugged and Abandoned Well.

GAS	
Utilization	Mcf
Producers field operations	3801
Vented to Atmosphere Non-hydrocarbon gas ACID GAS	67494
Hydrocarbon gas	-0-
Shrinkage 12% CONDENSATE	99058
Others (denote) METER DIFFERENCE	35745.
Others (denote) PLANT FUEL	60585
FUEL GAS TO COMP	17,324
Deliveries to transporter	
Name of company Address	
UNITED GAS PIPELINE CO., 3350 SUNCREST RD. EIGHT MILE, AL 36613	561998
Total	846005

CONDENSATE	
Utilization	Barrels
Producer field operation	
Others (denote)	
Others (denote)	
Deliveries to transporter	
Name of company Address	
HESS PIPELINE CO., P.O. BOX 332, PURVIS, MS 39475	297076
EXXON CO. USA, P.O. BOX 60626, NEW ORLEANS, LA 70160	-0-
GETTY OIL CO., P.O. BOX 16878, MOBILE, LA 36616	126.
Total	29720
Utilization of produced water	Barrels
Injection by disposal well	
Others (denote)	3940
Total	3940

Remarks

Executed this the 22 day of AUGUST, 19 85

State of TEXAS

County of HARRIS

L L Babbitt
Signature of Affiant

Before me, the undersigned authority, on this day personally appeared L L BABBITT known to me to be the person whose name is subscribed to the above instrument, who being by me duly sworn on oath states, that he is duly authorized to make the above report and that he has knowledge of the facts stated therein, and that said report is true and correct.

Subscribed and sworn to before me this 23 day of August, 19 85

Chrissandra A. Williams

SEAL

CHRISSANDRA A. WILLIAMS
Notary Public, State of Texas

My commission expires My Commission Expires 2-11-89

Notary Public in and for HARRIS

County, TEXAS

INSTRUCTIONS Read Carefully and Comply Fully

This report shall be filed in DUPLICATE with the State Oil and Gas Board on or before the 28th day of each calendar month, and shall be complete as to data covering the calendar month next preceding the date of filing.

In unitized fields, indicate total number of wells utilized in unit operations during the month.

The addresses of the producer, as required on this report, shall be clear and definite as to street number, City, and State.

All volumes of gas shall be reported in Mcf computed at 14.65 psia pressure and 60° F. Do not use fractions of Mcf in this report.

All amounts of condensate shall be reported in barrels of 42 U.S. gallons. Make a separate report for each field or pool. Under Well Status, use the following symbols: (F) Flowing; (P) Pumping; (G) Gas Lift; (SI) Shut In; (TA) Temporarily Abandoned; (NW) New Well; and (PA) Plugged and Abandoned Well.

FORM OGB-15
See instructions on reverse side of form
Rev. 12-84

STATE OIL AND GAS BOARD OF ALABAMA

420 Hackberry Lane
P. O. Box O, University Station
Tuscaloosa, Alabama 35486

PRODUCER'S MONTHLY REPORT FROM GAS WELLS

(file in duplicate)

Month July, 19 85.

Field HATTER'S POND County MOBILE

Operator GETTY OIL CO./ TEXACO INC Address P. O. BOX 52332 City HOUSTON State TEXAS Zip 77052

Person to contact regarding this report L. L. BOBBITT Phone number 713-650-5794

PRODUCTION

Pool Well name and number	Permit no.	Well Status	No. days producing	WATER (BBLS)	GAS (Mcf)		CONDENSATE (BARRELS)				
				Total water produced	Total gas production F.W.S.V.*	Total sales gas	Total condensate produced	Total condensate on hand beginning of month	Total condensate to transporter	Total condensate on hand end of month	Gas condensate ratio (cu. ft. per barrel)
CREOLA MINERALS 35-11 #3	3277	F	31	405	126745	59172	33031	1076	33031	1076	
CREOLA MINERALS 33-16 #1	3451	F	26	173	38433	16,323	11035	372	11025	382.	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD).							
				(11035 - 10 = 11025)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
				(11025 - 10 = 11015)							
D. C. BALDWIN 21-15 #1	3697	F	31	804	119,554	57,738	28495	994	28495	994	
ADAMS 9-16 #1	3995	F	31	407	88460	41,553	22397	712	22397	712	
BD. OF SCH. COMM 16-7 #1	2545	F	3	3	2261	1,256	344	394	271	467	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)							
				(344 - 76 = 268)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
				(271 - 76 = 195)							
Totals	☒	☒	☒	3940	1,185002	561948	247,147	9827	297076	9948	☒

1545

FORM OGB-16
See instructions on reverse side of form
Rev. 12 84

STATE OIL AND GAS BOARD OF ALABAMA

420 Hackberry Lane
P. O. Box O, University Station
Tuscaloosa, Alabama 35486

PRODUCER'S MONTHLY REPORT FROM GAS WELLS
(file in duplicate)

Month July, 19[illegible]

Field HATTER'S POND County MOBILE
Operator GETTY OIL CO./[illegible] Address P. O. BOX 52332 City HOUSTON State TEXAS Zip 77052
Person to contact regarding this report L. L. BOBBITT Phone number 713-659-5794

				PRODUCTION								
				WATER (BBLS)	GAS (Mcf)		CONDENSATE (BARRELS)					
Pool Well name and number	Permit no.	Well Status	No. days producing	Total water produced	Total gas production F.W.S.V.*	Total sales gas	Total condensate produced	Total condensate on hand beginning of month	Total condensate to transporter	Total condensate on hand end of month	Gas condensate ratio (cu. ft. per barrel)
D. C. BALDWIN 15-6 #1	2270	F	31	372	171301	82478	40516	1505	40497	1524	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)							
				(40516 - 20 = 40496)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
				(40497 - 20 = 40477)							
CREOLA MINERALS 2-6 #1	2740	F	31	554	196151	91,495	50293	1510	50293	1510.	
G. RADCLIFF 17-7 #1	2961	F	31	31	23429	12,619	1796	44	1787	53.	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)							
				(1796 - 10 = 1786)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
				(1787 - 10 = 1777)							
WILKIE, G. U. 28 #1	2746	F	31	621	145551	70,200	38070	1435	38,070	1435	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
Totals	☒	☒	☒								☒

FORM OGB-10
See instructions on reverse side of form
Rev. 12 84

STATE OIL AND GAS BOARD OF ALABAMA

420 Hackberry Lane
P. O. Box O, University Station
Tuscaloosa, Alabama 35486

PRODUCER'S MONTHLY REPORT FROM GAS WELLS

(file in duplicate)

Month [illegible], 19[illegible]

Field HATTER'S POND County MOBILE

Operator GETTY OIL CO. Address P. O. BOX 52332 City HOUSTON State TEXAS Zip 77052

Person to contact regarding this report L. L. BOBBITT Phone number 713-650-5794

PRODUCTION

Pool Well name and number	Permit no.	Well Status	No. days producing	WATER (BBLS) Total water produced	GAS (Mcf) Total gas production P.W.S.V.*	GAS (Mcf) Total sales gas	CONDENSATE (BARRELS) Total condensate produced	CONDENSATE (BARRELS) Total condensate on hand beginning of month	CONDENSATE (BARRELS) Total condensate to transporter	CONDENSATE (BARRELS) Total condensate on hand end of month	Gas condensate ratio (cu. ft. per barrel)
PETER KLEIN 3-14 #1	1978	F	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	
			*(PROD - COND. USED FOR TREATING = ACTUAL PROD.)								
			*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)								
E. L. HATTER 4-10 #2	2629	F	26	41	10898	5443	2209	80	2209	80	
			*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)								
			*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)								
CREOLA MINERALS 10-11 #3	3213	F	31	107	229954	108143	61082	1448	61082	1448	
CREOLA MINERALS 34-10 #1	2735	F	31	422	32265	15,578	7929	257	7919	267	
			*(PROD - COND. USED FOR TREATING = ACTUAL PROD.)								
			(7929 - 10 = 7919)								
			*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)								
			(7919 - 10 = 7909)								
Totals											

Rev. 12-84

4.0 Hackberry Lane
P. O. Box O, University Station
Tuscaloosa, Alabama 35486

PRODUCER'S MONTHLY REPORT FROM GAS WELLS

(file in duplicate)

Month August, 1985

Field HATTER'S POND County MOBILE
Operator GETTY OIL CO. Address P. O. BOX 52332 City HOUSTON State TEXAS Zip 77052
Person to contact regarding this report L. L. BOBBITT Phone number 713-659-5794

PRODUCTION

				WATER (BBLS)	GAS (Mcf)		CONDENSATE (BARRELS)				
Pool Well name and number	Permit no.	Well Status	No. days producing	Total water produced	Total gas production F.W.S.V.*	Total sales gas	Total condensate produced	Total condensate on hand beginning of month	Total condensate to transporter	Total condensate on hand end of month	Gas condensate ratio (cu. ft. per barrel)
D. C. BALDWIN 15-6 #1	2270	F	29	441	164872	161693	39150	1524	39204	1,470	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)							
				(39150 - 20 = 39130)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
				(39204 - 20 = 39184)							
CREOLA MINERALS 2-6 #1	2740	F	31	371	302924	125408	74018	1510	73829	1699	
G. RADCLIFF 17-7 #1	2961	F	23	21	18201	8603	1278	53	1285	46	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)							
				(1278 - 10 = 1268)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
				(1285 - 10 = 1275)							
WILKIE, G. U. 28 #1	2746	F	20	239	60773	24082	18738	1435	18972	1201	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
Totals	☒	☒	☒								☒

FORM OGB-13
See instructions on reverse side of form
Rev. 12-84

STATE OIL AND GAS BOARD OF ALABAMA
420 Hackberry Lane
P. O. Box O, University Station
Tuscaloosa, Alabama 35486

PRODUCER'S MONTHLY REPORT FROM GAS WELLS

(file in duplicate)

STATE OIL & GAS BOARD
OF ALABAMA
SEP 27. 1985

Month AUGUST, 1985

Field HATTER'S POND

Operator GETTY OIL CO. Address P. O. BOX 52332 City HOUSTON County MOBILE State TEXAS Zip 77052

Person to contact regarding this report L. L. BOBBITT Phone number 713-650-5794

PRODUCTION

Pool Well name and number	Permit no.	Well Status	No. days producing	WATER (BBLS) Total water produced	GAS (Mcf) Total gas production F.W.S.V.*	GAS (Mcf) Total sales gas	CONDENSATE (BARRELS) Total condensate produced	Total condensate on hand beginning of month	Total condensate to transporter	Total condensate on hand end of month	Gas condensate ratio (cu. ft. per barrel)
PETER KLEIN 3-14 #1	1978	F	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	
			*(PROD - COND. USED FOR TREATING = ACTUAL PROD.)								
			*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)								
E. L. HATTER 4-10 #2	2629	F	30	32	10856	4843.	2062	80	2007	75	
			*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)								
			*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)								
CREOLA MINERALS 10-11 #3	3213	F	31	566	259487	107136	68442	1448	68430	1460	
CREOLA MINERALS 34-10 #1	2735	F	30	4318	26390.	11063.	6667	267	6688	246	
			*(PROD - COND. USED FOR TREATING = ACTUAL PROD.)								
			(6667 - 10 = 6657)								
			*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)								
			(6688 - 10 = 6678.)								
Totals	☒	☒	☒								☒

*F.W.S.V. Full well stream volume

FORM OGB-16
See instructions on reverse side of form
Rev. 12 84

STATE OIL AND GAS BOARD OF ALABAMA

420 Hackberry Lane
P. O. Box O, University Station
Tuscaloosa, Alabama 35486

PRODUCER'S MONTHLY REPORT FROM GAS WELLS

(file in duplicate)

Month August, 19 85

Field HATTER'S POND County MOBILE

Operator GETTY OIL CO. Address P. O. BOX 52332 City HOUSTON State TEXAS Zip 77052

Person to contact regarding this report L. L. BOBBITT Phone number 713-650-5794

				PRODUCTION							
				WATER (BBLS)	GAS (Mcf)		CONDENSATE (BARRELS)				
Pool Well name and number	Permit no.	Well Status	No. days producing	Total water produced	Total gas production F.W.S.V.*	Total sales gas	Total condensate produced	Total condensate on hand beginning of month	Total condensate to transporter	Total condensate on hand end of month	Gas condensate ratio (cu. ft. per barrel)
CREOLA MINERALS 35-11 #3	3277	F	31	756	125303	50442	34060	1076	34033	1053	
CREOLA MINERALS 33-16 #1	3451	F	31	91	67342	25,389	18970	382	18902	450	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD).							
				(18970 - 10 = 18960)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
				(18902 - 10 = 18892)							
D. C. BALDWIN 21-15 #1	3697	F	31	435	118800	49938	28070	994	28103	961	
ADAMS 9-16 #1	3995	F	31	506	99622	40351	26201	712	26185	728	
BD. OF SCH. COMM 16-7 #1	2545	F	2	-0-	512	283	6	467	9	464	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
Totals	☒	☒	☒	7776	1,255,082	516,636	317602	9948	317697	9853	☒

FORM OGB 15
See instructions on reverse side of form
Rev. 12-84

STATE OIL AND GAS BOARD OF ALABAMA

420 Hackberry Lane
P. O. Box O, University Station
Tuscaloosa, Alabama 35486

PRODUCER'S MONTHLY REPORT FROM GAS WELLS

(file in duplicate)

Month SEPTEMBER, 1985

Field HATTER'S POND County MOBILE

Operator GETTY OIL CO./TEXACO INC. Address P. O. BOX 52332 City HOUSTON State TEXAS Zip 77052

Person to contact regarding this report L. L. BOBBITT Phone number 713-650-5794

PRODUCTION

Pool Well name and number	Permit no.	Well Status	No. days producing	WATER (BBLS) Total water produced	GAS (Mcf) Total gas production F.W.S.V.*	Total sales gas	CONDENSATE (BARRELS) Total condensate produced	Total condensate on hand beginning of month	Total condensate to transporter	Total condensate on hand end of month	Gas condensate ratio (cu. ft. per barrel)
CREOLA MINERALS 35-11 #3	3277	F	30	683	117020	45437	31137	1053	30631	1559	
CREOLA MINERALS 33-16 #1	3451	F	29	49	46106	16868	12446	450	12298	598	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD).							
				(12446 - 10 = 12436)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
				(12298 - 10 = 12288)							
D. C. BALDWIN 21-15 #1	3697	F	30	360	109,755	44,121	28142	961	27657	1446	
ADAMS 9-16 #1	3995	F	30	301	101,099	40165	25235	728	24810	1153	
BD. OF SCH. COMM 16-7 #1	2515	F	-0-	-0-	552	293	11	464	11	464	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
Total				3423	1,076,712	425,297	275,170	9853	270,914	14159	

FORM OGB-[illegible]
See Instructions on reverse side of form
Rev. 12-84

STATE OIL AND GAS BOARD OF ALABAMA
420 Hackberry Lane
P. O. Box O, University Station
Tuscaloosa, Alabama 35486

PRODUCER'S MONTHLY REPORT FROM GAS WELLS

(file in duplicate)

Month [illegible] 19 85

Field HATTER'S POND County MOBILE
Operator GETTY OIL CO./[illegible] Address P. O. BOX 52332 City HOUSTON State TEXAS Zip 77052
Person to contact regarding this report L. L. BOBBITT Phone number 713-659-5794

PRODUCTION

Pool Well name and number	Permit no.	Well Status	No. days producing	WATER (BBLS) Total water produced	GAS (Mcf) Total gas production F.W.S.V.*	GAS (Mcf) Total sales gas	CONDENSATE (BARRELS) Total condensate produced	CONDENSATE (BARRELS) Total condensate on hand beginning of month	CONDENSATE (BARRELS) Total condensate to transporter	CONDENSATE (BARRELS) Total condensate on hand end of month	Gas condensate ratio (cu. ft. per barrel)
D. C. BALDWIN 15-6 #1	2270	F	30	328	149388	59378	37420	1470	36793	2097	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)							
				(37420 - 20 = 37400)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
				(36793 - 20 = 36773)							
CREOLA MINERALS 2-6 #1	2740	F	30	453	241402	95800	59684	1699	58803	2580	
G. RADCLIFF 17-7 #1	2961	F	21	18	16709	7958	1208	46	1188	66	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)							
				(1208 - 10 = 1198)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
				(1188 - 10 = 1178)							
WILKIE, G. U. 28 #1	2746	F	30	246	73688	28137	22049	1201	21636	1614	
				*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)							
				*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)							
Totals	X	X	X								X

FORM OGB-16
See instructions on reverse side of form
Rev. 12 84

STATE OIL AND GAS BOARD OF ALABAMA

420 Hackberry Lane
P. O. Box O, University Station
Tuscaloosa, Alabama 35486

PRODUCER'S MONTHLY REPORT FROM GAS WELLS
(file in duplicate)

Month September, 19 85

Field HATTER'S POND County MOBILE

Operator GETTY OIL CO/Texaco Inc Address P. O. BOX 52332 City HOUSTON State TEXAS Zip 77052

Person to contact regarding this report L. L. BOBBITT Phone number 713-650-5794

			PRODUCTION								
				WATER (BBLS)	GAS (Mcf)		CONDENSATE (BARRELS)				
Pool Well name and number	Permit no.	Well Status	No. days producing	Total water produced	Total gas production F.W.S.V.*	Total sales gas	Total condensate produced	Total condensate on hand beginning of month	Total condensate to transporter	Total condensate on hand end of month	Gas condensate ratio (cu. ft. per barrel)
PETER KLEIN 3-14 #1	1978	F	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	
			*(PROD - COND. USED FOR TREATING = ACTUAL PROD.)								
			*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)								
E. L. HATTER 4-10 #2	2629	F	22	22	7358	3,024	1620	75	1546	99	
			*(PROD. - COND. USED FOR TREATING = ACTUAL PROD.)								
			*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)								
CREOLA MINERALS 10-11 #3	3213	F	30	378	182719	71826	48,162	1460	47538	2,084	
CREOLA MINERALS 34-10 #1	2735	F	30	585	30,976	12,291	8,056	246	7,903	399	
			*(PROD - COND. USED FOR TREATING = ACTUAL PROD.)								
			(8,056 - 10 = 8,046)								
			*(TOTAL SALES - COND. USED FOR TREATING = ACTUAL PIPELINE SALES)								
			(7,903 - 10 = 7,893)								
Totals	☒	☒	☒								☒

*F.W.S.V. Full well stream volume

Rogers - 28-11
Sipp - 20-9

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            MISSISSIPPI OIL AND GAS MONTHLY PRODUCTION LEDGER THROUGH DECEMBER , 1981
                                                   MONTH    OIL        $     WATER  STATUS DAYS PROD GRAV

-----------------------------------------------------------------------------------------------------------
FIELD      GREENS CREEK FIELD                       JAN       0          0        0  CI          0    00
POOL       FIFTH HOSSTON GAS POOL                   FEB       0          0        0  CI          0    00
OPERATOR   HARKINS & CO                             MAR       0          0        0  CI          0    00
WELL NAME  BD. OF SUPERVISORS U 16-8                APR       0          0        0  CI          0    00
WELL NO    1-LT                                     MAY       0          0        0  CI          0    00
COUNTY     JEFFERSN DAVIS                           JUN       0          0        0  CI          0    00
                                                    JUL       0          0        0  CI          0    00
CUMULATIVES TO 01/01/81        YTD CUMULATIVES      AUG       0          0        0  CI          0    00
                                                    SEP       0          0        0  CI          0    00
OIL                1,983                 1,983      OCT       0          0        0  CI          0    00
GAS            1,091,091             1,091,091      NOV       0          0        0  CI          0    00
WATER             11,043                11,043      DEC       0          0        0  CI          0    00
                                              ** TOTAL        0          0        0
-----------------------------------------------------------------------------------------------------------
FIELD      GREENS CREEK FIELD                       JAN       0          0        0             00    00
POOL       HOSSTON-HARPER GAS POOL                  FEB       0          0        0             00    00
OPERATOR   GETTY OIL CO                             MAR       0          0        0             00    00
WELL NAME  ROGERS 28-11                             APR    1002      88262      253   F         15    51
*WELL NO    1                                       MAY    1950     194120      585   F         31    51
COUNTY     MARION                                   JUN    2548     193521      281   F         30    51
                                                    JUL    2710     209978      635   F         31    51
CUMULATIVES TO 01/01/81        YTD CUMULATIVES      AUG    2687     215712      689   F         31    51
                                                    SEP    3463     214608      692   F         30    51
OIL                    0                22,608      OCT    2707     219792      688   F         31    51
GAS                    0             1,804,747      NOV    2722     228329      653   F         30    51
WATER                  0                 5,191      DEC    2819     242225      715   F         31    51
                                              ** TOTAL    22608    1804747     5191
-----------------------------------------------------------------------------------------------------------
FIELD      GREENS CREEK FIELD                       JAN       0          0        0             00    00
POOL       HOSSTON HARPER GAS POOL                  FEB       0          0        0             00    00
OPERATOR   GETTY OIL CO                             MAR       0          0        0             00    00
WELL NAME  SIPP 20-9                                APR       0          0        0             00    00
WELL NO    2                                        MAY       0          0        0             00    00
COUNTY     MARION                                   JUN       0          0        0             00    00
                                                    JUL       0          0        0             00    00
CUMULATIVES TO 01/01/81        YTD CUMULATIVES      AUG       0          0        0             00    00
                                                    SEP       0          0        0             00    00
OIL                    0                 2,595      OCT     123      11985       38   F         03    00
GAS                    0               235,498      NOV    1246     115171      361   F         30    00
WATER                  0                   634      DEC    1226     108340      235   F         31    00
                                              ** TOTAL     2595     235498      634
-----------------------------------------------------------------------------------------------------------
FIELD      GREENS CREEK FIELD                       JAN    1408     128809      310   F         31    48
POOL       HOSSTON-HARPER GAS POOL                  FEB    1199     110252      270   F         27    48
OPERATOR   HARKINS & CO                             MAR    1384     125258      310   F         31    47
WELL NAME  BARNES 9-10                              APR    1330     119464      300   F         30    47
WELL NO    1-LT                                     MAY    1333     121208      300   F         30    48
COUNTY     MARION                                   JUN    1323     118366      300   F         30    48
                                                    JUL    1366     119948      310   F         31    48
CUMULATIVES TO 01/01/81        YTD CUMULATIVES      AUG    1221     114205      278   F         28    47
                                                    SEP    1329     123448      300   F         30    49
OIL               10,421                26,366      OCT    1378     128877      310   F         31    48
GAS              897,150             2,355,912      NOV    1277     122187      300   F         30    48
WATER              2,461                 6,063      DEC    1397     128574      314   F         30    49
                                              ** TOTAL    15945    1438756     3602
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United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 75B

DEFENDANT'S
EXHIBIT
1

EXHIBIT
Respondent's
Exhibit 75C

1985 Rogers 28-11

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                    MISSISSIPPI OIL AND GAS MONTHLY PRODUCTION LEDGER THROUGH SEPTEMBER
                                                         MONTH     OIL       GAS     WATER  STATUS DAYS PROD GRAV

-----------------------------------------------------------------------------------------------------------------
FIELD       GREENS CREEK FIELD                            JAN      318     46318      1559    F        31     52
POOL        HOSSTON-HARPER GAS POOL                       FEB      103     32152      1433    F        28     52
OPERATOR    HAWKINS & CO                                  MAR      106     17483       755    F        28     53
WELL NAME   TOLAR UNIT 15-6                               APR       13      7170       103    F        20     53
WELL NO     1                                             MAY        0       484        22    F        05     53
COUNTY      JEFFERSN DAVIS                                JUN        0         0         0    CI        0     00
                                                          JUL        0         0         0    CI        0     00
CUMULATIVES TO 01/01/85          YTD CUMULATIVES          AUG        0         0         0    CI        0     00
                                                          SEP        0         0         0    CI        0     00
OIL              77,759                  78,387
GAS           8,383,007               8,486,594
WATER            27,974                  31,846
                                                  ** TOTAL         628    103587      3872
-----------------------------------------------------------------------------------------------------------------
FIELD       GREENS CREEK FIELD                            JAN      394     57810       285    F        31     00
POOL        HOSSTON-HARPER GAS POOL                       FEB      358     50857       253    F        28     00
OPERATOR    RIVER PRODUCTION CO., INC.                    MAR      383     58015       288    F        31     00
WELL NAME   FRANK WILSON BUCKLEY 21-13                    APR      382     52722       282    F        30     00
WELL NO     1                                             MAY      381     53717       315    F        31     00
COUNTY      MARION                                        JUN      330     49499       243    F        30     00
                                                          JUL      337     49580       275    F        31     00
CUMULATIVES TO 01/01/85          YTD CUMULATIVES          AUG      331     49853       272    F        31     51
                                                          SEP      308     49947       268    F        30     51
OIL              16,038                  19,222
GAS           1,846,059               2,315,859
WATER             8,533                  11,013
                                                  ** TOTAL        3184    469800      2480
-----------------------------------------------------------------------------------------------------------------
FIELD       GREENS CREEK FIELD                            JAN      707     88838       328    F        31     51
POOL        HOSSTON-HARPER GAS POOL                       FEB      635     77890       260    F        28     51
OPERATOR    TEXACO PRODUCING INC                          MAR      725     83078       232    F        31     51
WELL NAME   ROGERS 28-11                                  APR      745     86687       242    F        30     51
WELL NO     1                                             MAY      708     91003       254    F        31     51
COUNTY      MARION                                        JUN      722     89238       275    F        30     00
                                                          JUL      734     87951       230    F        31     51
CUMULATIVES TO 01/01/85          YTD CUMULATIVES          AUG      724     90975       237    F        31     51
                                                          SEP      612     62177       108    F        30     51
OIL              74,668                  81,018
GAS           [illegible]             7,780,801
WATER            22,900                  25,085
                                                  ** TOTAL        6350    775813      2185
-----------------------------------------------------------------------------------------------------------------
FIELD       GREENS CREEK FIELD                            JAN      328     53781       245    F        31     00
POOL        HOSSTON-HARPER GAS POOL                       FEB      342     48034       227    F        28     00
OPERATOR    TEXACO PRODUCING INC                          MAR      423     53833       181    F        31     00
WELL NAME   SIPP 20-9                                     APR      424     52987       275    F        30     00
WELL NO     2-L                                           MAY      422     56058       271    F        31     00
COUNTY      MARION                                        JUN      385     53168       284    F        30     00
                                                          JUL      391     58047       298    F        31     00
CUMULATIVES TO 01/01/85          YTD CUMULATIVES          AUG      385     52441       295    F        31     00
                                                          SEP      285     38001       180    F        30     00
OIL              25,130                  28,495
GAS           2,662,511               3,126,819
WATER            10,641                  12,807
                                                  ** TOTAL        3385    464308      2288
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FILE COPY

IN THE SENATE OF THE UNITED STATES
Sitting As A Court Of Impeachment

In re)
IMPEACHMENT OF)
WALTER L. NIXON, JR.)

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 76

STIPULATION OF WITNESS TESTIMONY

The House Managers and respondent Walter L. Nixon hereby agree and stipulate that if the following witnesses were summoned to testify before the Senate in these impeachment proceedings, they would give the following testimony as indicated herein.

Betty Lou Watkins

Ms. Watkins has worked as Judge Nixon's secretary since 1982. She would testify as follows:

(1) She has reviewed all issues of the Hattiesburg American and the Jackson Clarion-Ledger, which are the major newspapers circulated in the Hattiesburg area, for the period August 1980 through April 1983. In that review, she looked for any and all publicity concerning the Drew Fairchild drug prosecution. As a result of that review, she has identified the following articles as the only articles appearing in

those newspapers in that period that referred to the Drew Fairchild drug prosecution:

Hattiesburg American:

August 4, 1980: "Four arrested -- Planeload of marijuana seized at local airport" (Drew Fairchild not named)

August 5, 1980: "Bond set for 4 jailed in drug bust" (Drew Fairchild not named)

August 27, 1981: "Local man is indicted in 1980 airport pot bust" (Drew Fairchild named)

August 29, 1981: "Municipal Airport has been attractive to drug smugglers" (Drew Fairchild named)

Jan. 5, 1982: "Drug deal suspect arrested in Texas" (Drew Fairchild named)

Jan. 7, 1983: "Weldy Passes To Inactive File Fairchild Drug Smuggling Charge" (Drew Fairchild named)

Jan. 27, 1983: "Fairchild Case Returns to Active Files" (Drew Fairchild named)

Jackson Clarion-Ledger

Aug. 5, 1980: "Agents seize 1,900 pounds of pot" (Drew Fairchild not named)

2. Respondent's Exhibit 17, a telephone message reflecting that Bud Holmes called Judge Nixon at the federal courthouse in Hattiesburg during the noon hour on March 11, 1983, was prepared by Ms. Watkins, at the time reflected on Exhibit 17, as part of her ordinary employment duties.

Michael B. Holleman

Mr. Holleman, an attorney in Gulfport, Mississippi, has represented Judge Nixon both in these impeachment proceedings and in the post-conviction proceeding in federal court. In August 1988, on the Friday before the hearing on the post-conviction motion in Jackson, Mr. Holleman and other counsel for Judge Nixon visited the offices of Fairchild Construction Co. in Hattiesburg. During conversations with Fairchild Construction personnel and counsel, Mr. Holleman asked for permission to review certain papers which were stored in a closet in John Baltar's former office in the building. Mr. Baltar had previously told Mr. Holleman that he had left all materials relating to the grand jury investigation in that closet. Upon being given permission to examine the materials in that closet, Mr. Holleman did review them, and found in those materials the following materials: Respondent's Exhibits 37, 38, 39, 40, and 41. Counsel for Judge Nixon then received permission from Fairchild Construction Co. personnel and counsel to remove those items for use in legal proceedings concerning Judge Nixon.

James Halsted

Mr. Halsted is a professor of criminology at the University of South Florida. In 1986, he was retained by a Mississippi television station to attend the Nixon trial in Hattiesburg and provide expert commentary on the proceedings. Following the trial, Mr. Halsted remained interested in the

Nixon case and intended to write an article on the subject. As part of his preparation to write about the Nixon trial, Mr. Halsted interviewed Paul "Bud" Holmes over the telephone on two occasions, and made tape-recordings of those conversations. Those tape-recordings and the transcripts of those conversations are marked as Respondent's Exhibits 63 and 64.

Karl Kepper

Mr. Kepper, a private attorney in Hattiesburg, Mississippi, was one of the counsel representing Wiley Fairchild during the grand jury investigation. Mr. Kepper himself testified before the grand jury, and the transcript of his grand jury testimony is marked as Respondent's Exhibit 47. That transcript, it is stipulated and agreed, shall be included in the record of this proceeding in lieu of live testimony by Mr. Kepper.

STIPULATED AND AGREED TO BY:

David O. Stewart
DAVID OVERLOCK STEWART
PETER M. BRODY
ROPES & GRAY
1001 Pennsylvania Ave., N.W.
Suite 1200 South
Washington, D.C. 20004
(202) 626-3900

Counsel for Judge Nixon

The United States House
of Representatives

By Alan I. Baron (PEK)
Alan I. Baron
Special Counsel

Peter E. Keith
Assistant Special Counsel

Managers of the House of
Representatives

Jack Brooks
Don Edwards
Benjamin L. Cardin
F. James Sensenbrenner
William E. Dannemeyer

Date: August 30, 1989

1982

Rogers 28-11

Sipp 20-9

1555

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                    MISSISSIPPI OIL AND GAS MONTHLY PRODUCTION LEDGER THROUGH DECEMBER
                                                        MONTH    OIL      GAS      WATER  STATUS DAYS PROD GRAV
--------------------------------------------------------------------------------------------------------------
FIELD      GREENS CREEK FIELD                            JAN     2878   230094      830    F          31    51
POOL       HOSSTON-HARPER GAS POOL                       FEB     2481   220419      887    F          28    51
OPERATOR   GETTY OIL CO                                  MAR     2701   245804      715    F          31    51
WELL NAME  ROGERS 28-11                                  APR     2450   226372      880    F          30    51
WELL NO    1                                             MAY     2812   228450      738    F          31    51
COUNTY     MARION                                        JUN     2374   221304      720    F          30    51
                                                         JUL     2288   208825      783    F          31    51
CUMULATIVES TO 01/01/82          YTD CUMULATIVES         AUG     2045   184878      418    F          30    51
                                                         SEP     2080   180177      732    F          30    51
OIL            22,808                   48,811           OCT     1884   158782      800    F          31    51
GAS         1,804,747                4,171,211           NOV     1318   108383      415    F          30    51
WATER           5,181                   12,750           DEC     1384   138853      449    F          31    51
                                                  ** TOTAL      26003  2366464     7568
--------------------------------------------------------------------------------------------------------------
FIELD      GREENS CREEK FIELD                            JAN      939    81369      331    F          31    00
POOL       HOSSTON-HARPER GAS POOL                       FEB      867    76500      220    F          28    00
OPERATOR   GETTY OIL CO                                  MAR      828    75982      211    F          31    00
WELL NAME  SIPP 20-9                                     APR      733    70090      232    P          30    00
WELL NO    2-L                                           MAY      840    74240      218    F          31    00
COUNTY     MARION                                        JUN      684    83557      210    F          30    00
                                                         JUL      684    85669      199    F          31    00
CUMULATIVES TO 01/01/82          YTD CUMULATIVES         AUG      738    70980      221    F          31    00
                                                         SEP      831    84450      182    F          24    00
OIL             2,595                   10,130           OCT       18     8435        8    P          04    00
GAS           339,409                  838,189           NOV      878    83985      359    F          20    00
WATER             634                    2,815           DEC      108     8072        0    F          08    00
                                                  ** TOTAL       7535   703886     2181
--------------------------------------------------------------------------------------------------------------
FIELD      GREENS CREEK FIELD                            JAN     1539   143138      354    F          31    49
POOL       HOSSTON-HARPER GAS POOL                       FEB     1447   136205      378    F          28    48
OPERATOR   HARKINS & CO                                  MAR     1597   144442      420    F          30    48
WELL NAME  BARNES 9-10                                   APR     1554   147275      420    F          30    48
WELL NO    1-LT                                          MAY     1580   150217      434    F          31    48
COUNTY     MARION                                        JUN     1452   147018      406    F          29    48
                                                         JUL     1479   140945      434    F          31    49
CUMULATIVES TO 01/01/82          YTD CUMULATIVES         AUG     1523   144773      414    F          31    49
                                                         SEP     1259   138157      360    F          30    49
OIL            26,366                   43,603           OCT     1124   122242      324    F          27    49
GAS         2,350,151                4,048,457           NOV     1313   136608      388    F          30    49
WATER           6,063                   10,739           DEC     1390   141286      372    F          31    49
                                                  ** TOTAL      17237  1698306     4676
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FIELD      GREENS CREEK FIELD                            JAN     1530   141107      388    F          31    48
POOL       HOSSTON-HARPER GAS POOL                       FEB     1421   139325      378    F          28    49
OPERATOR   HARKINS & CO                                  MAR      328    34443      165    F          07    48
WELL NAME  BD. OF SUPERVISOR? U 18-11                    APR     1487   154720      502    F          30    48
WELL NO    2                                             MAY     1527   158814      498    F          31    48
COUNTY     JEFFERSN DAVIS                                JUN     1409   146908      464    F          29    48
                                                         JUL     1439   144715      440    F          31    49
CUMULATIVES TO 01/01/82          YTD CUMULATIVES         AUG     1380   139038      440    F          30    49
                                                         SEP     1183   130720      392    F          28    48
OIL            55,330                   71,202           OCT     1301   138043      415    F          30    49
GAS         4,998,468                6,600,512           NOV     1408   134334      420    F          30    50
WATER          11,884                   16,796           DEC     1451   142977      434    F          31    48
                                                  ** TOTAL      15872  1602044     4912
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1983   Rogers 28-11

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                  MISSISSIPPI OIL AND GAS MONTHLY PRODUCTION LEDGER THROUGH DECEMBER
                                                    MONTH     OIL      GAS     WATER  STATUS DAYS PROD GRAV
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  FIELD      GREENS CREEK FIELD                      JAN     2117   208462      738    F          31    51
  POOL       HOSSTON-HARPER GAS POOL                 FEB     1927   194854      734    F          28    51
  OPERATOR   GETTY OIL CO                            MAR     1958   210285      774    F          31    51
  WELL NAME  ROGERS 28-11                            APR     1627   179028      678    F          30    51
  WELL NO    1                                       MAY     1632   189338      718    F          31    51
* COUNTY     MARION                                  JUN      870   101558      401    F          30    51
                                                     JUL      897    82025      238    F          31    51
  CUMULATIVES TO 01/01/83          YTD CUMULATIVES   AUG      785    74091      267    F          31    51
                                                     SEP      807    58285      198    F          30    51
  OIL             48,911                  63,150     OCT      739    65367      228    F          31    51
  GAS          4,170,831               5,649,771     NOV      768    69492      203    F          30    51
  WATER           12,729                  18,114     DEC      892    84747      184    F          28    51
                                                 ** TOTAL   14238  1478940     5385
---------------------------------------------------------------------------------------------------------
  FIELD      GREENS CREEK FIELD                      JAN      818    88055      493    F          27    00
  POOL       HOSSTON-HARPER GAS POOL                 FEB     1129   113702      908    F          28    00
  OPERATOR   GETTY OIL CO                            MAR     1008   105458      443    F          31    00
  WELL NAME  SIPP 20-9                               APR      983    99345      412    F          30    00
  WELL NO    2-L                                     MAY      986   101249      413    F          31    51
  COUNTY     MARION                                  JUN      656    58075      153    F          30    00
                                                     JUL      494    40764      189    F          31    00
  CUMULATIVES TO 01/01/83          YTD CUMULATIVES   AUG      583    70210      259    F          31    00
                                                     SEP      488    49031      200    F          30    00
  OIL             10,130                  18,698     OCT      480    49595      218    F          31    00
  GAS            939,007               1,810,024     NOV      469    48459      187    F          30    00
  WATER            2,815                   6,853     DEC      380    49578      185    F          28    00
                                                 ** TOTAL    8568   871017     4038
---------------------------------------------------------------------------------------------------------
  FIELD      GREENS CREEK FIELD                      JAN     1417   138994      372    F          31    49
  POOL       HOSSTON-HARPER GAS POOL                 FEB     1210   123029      328    F          28    50
  OPERATOR   HARKINS & CO                            MAR     1328   143091      370    F          31    50
  WELL NAME  BARNES 8-10                             APR     1283   135584      380    F          30    50
  WELL NO    1-LT                                    MAY     1247   134135      380    F          30    50
  COUNTY     MARION                                  JUN      824    88511      251    F          30    49
                                                     JUL      484    39389      130    F          31    50
  CUMULATIVES TO 01/01/83          YTD CUMULATIVES   AUG      450    37802      124    F          30    47
                                                     SEP      309    29593      109    F          21    50
  OIL             43,603                  53,579     OCT      456    48333      188    F          31    49
  GAS          4,048,457               5,070,978     NOV      478    49157      188    F          28    49
  WATER           10,739                  13,753     DEC      512    59103      259    F          31    50
                                                 ** TOTAL    9976  1022521     3014
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  FIELD      GREENS CREEK FIELD                      JAN     1449   141593      434    F          31    49
  POOL       HOSSTON-HARPER GAS POOL                 FEB     1251   123368      385    F          28    50
  OPERATOR   HARKINS & CO                            MAR     1380   138955      434    F          31    50
  WELL NAME  BD. OF SUPERVISORS U 16-11              APR     1285   129448      408    F          29    50
  WELL NO    2                                       MAY     1348   138843      434    F          31    50
  COUNTY     JEFFERSN DAVIS                          JUN      881    87559      294    F          30    50
                                                     JUL      428    39517      181    F          31    49
  CUMULATIVES TO 01/01/83          YTD CUMULATIVES   AUG      388    38854      155    F          30    48
                                                     SEP      398    48988      178    F          23    50
  OIL             71,203                  81,398     OCT      458    47305      241    F          31    49
  GAS          6,600,912               7,646,509     NOV      481    49908      278    F          29    49
  WATER           16,706                  20,507     DEC      515    60875      403    F          31    50
                                                 ** TOTAL   10195  1049997     3801
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1984   Rogers 28-11

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                         MISSISSIPPI OIL AND GAS MONTHLY PRODUCTION LEDGER THROUGH DECEMBER
                                                          MONTH    OIL       GAS      WATER  STATUS DAYS PROD GRAV
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FIELD      GREENS CREEK FIELD                              JAN      810    111558      521    F          31      51
POOL       HOSSTON-HARPER GAS POOL                         FEB     1173    147443      572    F          28      51
OPERATOR   FLORIDA EXPLORATION CO                          MAR     1130    148137      565    F          31      51
WELL NAME  BARNES 28-1                                     APR      499     86902      479    F          30      51
WELL NO    1-L                                             MAY      820     93798      480    F          31      52
COUNTY     MARION                                          JUN      856    101744      520    F          30      50
                                                           JUL      784     88151      481    F          31      51
CUMULATIVES TO 01/01/84          YTD CUMULATIVES           AUG      721     86662      500    F          31      51
                                                           SEP      588     88142      487    F          30      51
OIL              23,775                   33,321           OCT      705     89005      440    F          31      52
GAS           2,803,825                4,059,165           NOV      636     84115      414    F          30      52
WATER            12,344                   18,238           DEC      703     96802      485    F          31      53
                                                      ** TOTAL     9546   1255340     5894
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FIELD      GREENS CREEK FIELD                              JAN      893    116378      473    F          31      51
POOL       HOSSTON-HARPER GAS POOL                         FEB     1193    144129      487    F          28      51
OPERATOR   GETTY OIL CO                                    MAR     1112    136838      489    F          31      51
WELL NAME  ROGERS 28-11                                    APR     1061    112779      381    F          30      51
* WELL NO    1                                             MAY      986    101327      348    F          30      51
COUNTY     MARION                                          JUN      903    101876      384    F          30      51
                                                           JUL     1009    110904      407    F          31      51
CUMULATIVES TO 01/01/84          YTD CUMULATIVES           AUG     1088    131051      444    F          31      51
                                                           SEP      957     93611      343    F          30      51
OIL              63,150                   74,967           OCT      803     88290      329    F          31      51
GAS           7,649,771                8,984,427           NOV      852     82495      378    F          30      51
WATER            18,114                   22,900           DEC      823     93979      368    F          31      51
                                                      ** TOTAL    11817   1334656     4786
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FIELD      GREENS CREEK FIELD                              JAN      898     87181      333    F          31      00
POOL       HOSSTON-HARPER GAS POOL                         FEB      815     89737      440    F          28      00
OPERATOR   GETTY OIL CO                                    MAR      778     85564      409    F          31      00
WELL NAME  SIPP 20-9                                       APR      575     72338      318    F          30      00
WELL NO    2-L                                             MAY      490     66142      295    F          30      00
COUNTY     MARION                                          JUN      504     68407      318    F          30      00
                                                           JUL      598     78086      371    F          31      00
CUMULATIVES TO 01/01/84          YTD CUMULATIVES           AUG      601     80458      278    F          31      00
                                                           SEP      429     52290      223    F          30      00
OIL              18,697                   25,128           OCT      320     51280      240    F          31      00
GAS           1,810,024                2,661,900           NOV      313     49903      224    F          30      00
WATER             6,853                   10,541           DEC      313     50531      241    F          31      00
                                                      ** TOTAL     6431    851876     3688
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FIELD      GREENS CREEK FIELD                              JAN      787    113016      321    F          31      50
POOL       HOSSTON-HARPER GAS POOL                         FEB     1043    124456      318    F          28      50
OPERATOR   HARKINS & CO                                    MAR     1153    104524      291    F          30      50
WELL NAME  BARNES 8-10                                     APR      881     75316      242    F          30      50
WELL NO    1-LT                                            MAY      812     80375      284    F          31      50
COUNTY     MARION                                          JUN      671     71310      240    F          30      50
                                                           JUL      648     72232      240    F          30      41
CUMULATIVES TO 01/01/84          YTD CUMULATIVES           AUG      808     93095      317    F          31      50
                                                           SEP      882    102560      382    F          30      50
OIL              53,579                   63,621           OCT      768     89658      280    F          31      51
GAS           5,070,978                6,191,329           NOV      728     83868      281    F          28      51
WATER            13,753                   17,275           DEC      864    100941      305    F          31      48
                                                      ** TOTAL    10042   1120351     3522
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United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 77

STATE OF MISSISSIPPI
COUNTY OF FORREST

AFFIDAVIT

Personally appeared before me, the within named RODNEY FAIRCHILD, who stated on his oath as follows:

"I am Rodney Fairchild, an adult resident citizen of Hattiesburg, Mississippi. I am a general partner of W. R. Fairchild Construction Company, Ltd., and I am Wiley Fairchild's brother. I am age 70.

I recall at least one occasion, possibly two, when Judge Walter Nixon visited in Wiley's office. I recall one specific occasion in which we exchanged greetings and pleasantries, after which I left the room and did not hear the conversation between Judge Nixon and Wiley. The next morning Wiley told me that he had had a conversation with Judge Nixon and had told Judge Nixon that he thought he was being blackmailed concerning Drew's case. I do not remember Wiley's specific words, but he gave me the impression that he was pleased about his talk with Judge Nixon.

To the best of my recollection, I associate this event as occurring at about the time of publicity concerning Drew's case being passed to the file in the Circuit Court of Forrest County, although I do not specifically remember if this event was before or after the case was passed to the file. For a long time, I thought Drew's case had been passed to the file for several months, and only recently have I learned that Drew's case was reinstated approximately one month after it was passed to the file. To the best of my recollection, there has been continued publicity in the newsmedia in Hattiesburg concerning this case, though not always was the Fairchild name mentioned.

I cannot give a date when Judge Nixon had the meeting in Wiley's office. It could have been either before or after Drew's case was passed to the file. I simply do not remember."

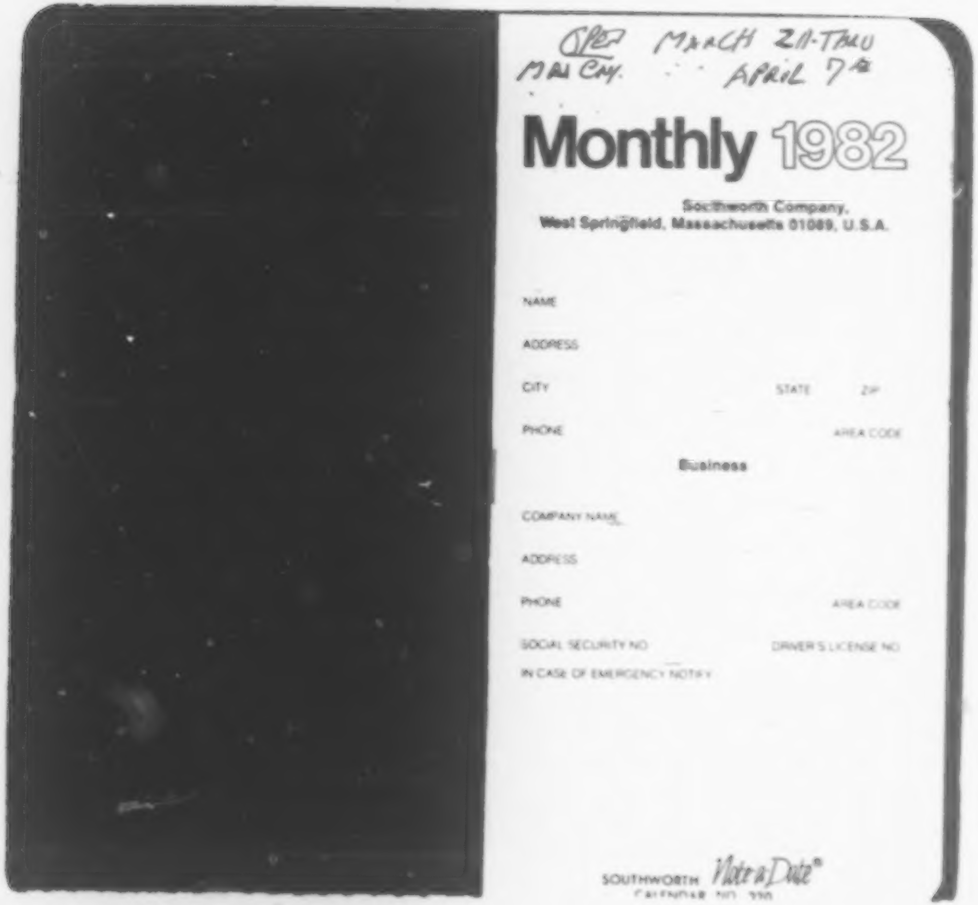
Rodney Fairchild
RODNEY FAIRCHILD

SWORN TO AND SUBSCRIBED before me on this, the 31st day of August, 1989.

NOTARY PUBLIC

My Commission Expires:
Sept. 24, 19[illegible]
(SEAL)

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 78



OPER MARCH 21-THRU
MAI CTY. APRIL 7th

Monthly 1982

Southworth Company,
West Springfield, Massachusetts 01089, U.S.A.

NAME
ADDRESS
CITY STATE ZIP
PHONE AREA CODE

Business

COMPANY NAME
ADDRESS
PHONE AREA CODE
SOCIAL SECURITY NO. DRIVER'S LICENSE NO.
IN CASE OF EMERGENCY NOTIFY

SOUTHWORTH *Note a Date*®
CALENDAR NO. 330

December 1981

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17 Motions 110 B7/Ct 9 A.M.	18	19 Miss. Deer Season ~~[illegible]~~ thru [illegible] ~~[illegible]~~ Thru Jan. 16th 2nd [illegible] Duck Season - Thru Jan. 20
20	21 Hanukkah	22	23	24	25 Christmas	26 3rd Duck Season - Thru Jan 16th Boxing Day (U.K., not Scotland)
27	28 Laurie Gutierrez ~~[illegible]~~ Party [illegible] Tonite 9:30 - [illegible]	29	30	31		

January 1982

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 New Year's Day	2
3	4	5	6	7	8 MOTIONS & SPECIAL NATURALIZATION AT 9	9
10	11	12	13	14	15	16 LAST DAY MISS. DEER SEASON — GUNS & DOGS
17 MISS. [illegible] [illegible] SEASON THRU JAN 31st	18 LAST DAY OF ALA. DUCK SEASON	19	20 LAST DAY LA. DUCK SEASON	21	22 MOTIONS TODAY	23
24	25	26 [illegible] TRIAL AT 8:30 IN JACKSON JURY/CASES	27	28	29	30
31						

February 1982

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1	2 APPT. IN N.O. AT 11:30	3 MOTIONS TODAY AT 9:30	4	5 PRELIMINARY INJUNCTION AT 9:30 ([illegible])	6 CONFERENCE AT 2 TODAY IN N.O.
7	8 ~~JACKSON JURY CHALLENGE~~ AT 1:30 - 2 WK	9 LUNCH(?) G.W.	10	11 PRELIM. PRE TRIAL ON ALL [illegible] ACTIONS OF ASBESTOS CASES AT 1:30 IN JACKSON	12 FIFTH CIRCUIT MEETING IN N.O. — TIME ??	13
14 Valentine's Day	15 2nd WEEK OF JACKSON JURY CHALLENGE Washington's Birthday	16	17	18	19 MOTIONS [illegible] TODAY [illegible] [illegible] 10 AM	20 /
21	22 MARK OUT THIS WEEK JAS SUMMERS AT 10AM	23	24 ARRAIGN TWO CHANGES OF PLEAS + 2nd 3 SENTENCINGS AT 10AM IN JACKSON Ash Wednesday	25 3 CHANGES OF PLEAS IN 8:30 IN JACKSON	26 CONFERENCE RE MISS. CHEMICAL VS. SHELL OIL AT 10AM IN JACKSON ~~[illegible]~~ MOTIONS AT 9:30	27
28						

[illegible] 10-13

PADRE OUT MARCH 20 - 28
APRIL 20 - 25

March 1982

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 FULL WK. TO CONSIDER VIDEO TAPES, DEPOS., etc. IN ASBESTOS CASE - BILOXI	2	3	4	5	6
7	8 U.S. VS. BATTEASH & LINDSEY AT 10:30 IN BILOXI	9 INTERVIEWS AT 9:30 10:30 & 11:30	10 ~~MOTIONS TODAY~~ MOTIONS TODAY AT 9:30	11 ~~MOTIONS TODAY~~	12	13
14	15	16	17 MOTIONS TODAY St. Patrick's Day	18	19 MCCORMICK PRETRIALS AT 11 TODAY LA. & MISS TOMORROW	20 ~~MISS.~~ MISS. TURKEY SEASON - THRU APRIL 8 - CLOSED & REOPEN 10TH THRU. MAY 1ST
21 Mothering Sunday (U.K.)	22	23	24 SECRETARY INTERVIEWS AT 8:30, 9:15, 10 & 10:45	25 ~~ARGUMENT AT 9:30 IN [illegible]~~ 5 STATES CAMPAIGN STEVE BURSICK ~ MAGISTRATE AT 10AM	26 MOTIONS AT 9:30	27
28	29 Judge [illegible] [illegible] ~~[illegible]~~ Hattiesburg [illegible]	30	31			

April 1982

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1	2 FINAL PRE-TRIAL CONF. IN ASBESTOS CASE AT 9:30 in BILOXI	3
4 Palm Sunday	5 Ralph off [illegible]	6 HAIR APPT AT 9:30 HOME	7 ASBESTOS CASE DISCUSSION AT 9:30	8 Passover	9 MISS TURKEY SEASON CLOSED FOR TODAY Good Friday	
11 Easter	12 Judge [illegible] Biloxi Jury Called Easter Monday (Canada)	13	14	15	16 BILOXI JURY CASE PRETRIAL AT 9 AM [illegible] LAST CAMP	17
18	19 MOTIONS TODAY AT 9:30 Judge [illegible] 2 week Criminal Called at [illegible]	20	21	22	23 DR. GARCIA (BARBARA) AT 11:30	24 ALA. TURKEY SEASON ENDS TOMORROW
25	26 Judge [illegible] Thomas [illegible] for 1 day	27 PRUITT MOTIONS AT 9 IN BILOXI	28	29 TRIP(?)	30	

May 1982

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
						1 LAST DAY OF MISS. TURKEY [illegible]
2 5th CIR. CONF. TO WED. IN SAN ANTONIO	3 May Day Holiday (U.K.)	4	5	6	7 ~~Mrs. Farrel~~ ~~LAYTON'S COCKTAIL PARTY & DINNER AT 6 & 7:30~~ MERIDIAN	8
9 Mother's Day	10 STATUS HEARING MCC VS SHELL IN BILOXI AT 2 P.M ALSO, MOTIONS AT 9:30 - ALL DAY	11 Judge Russell [illegible]	12 JURY SELECTION IN ASBESTOS CASE AT 9:30	13 Miss U.S.A. Pageant ([illegible]) 7:30 pm	14	15 Armed Forces Day
16	17 TRIAL OF ASBESTOS CASE AT 9:30	18	19	20	21 PETIT BOIS ARGUMENT AT NOON	22
23	24 CONVOCATION TONITE Victoria Day (Canada)	25 DINNER TONITE	26	27	28 Courtney & Rai dance recital 7. pm	29
30 SURPRISE PARTY LAKE 6-8 - [illegible] - PC.	31 Memorial Day Spring Holiday (U.K. not Scotland)					

June 1982

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1 P's [illegible] THRU 9th	2	3	4	5 ~~ANNIVERSARY~~ ~~TODAY~~
6	7 Judge [illegible] [illegible] Hotel [illegible] Holiday (Republic of Ireland)	8	9	10	11	12 JOHN'S CHRISTENING at 2
13	14 Judge [illegible] [illegible] [illegible] Flag Day	⑮ Dr. York [illegible] [illegible] 2 PM.	16	17	18	19
20 Father's Day	21 ~~SNOWDEN CRIMINAL TRIAL AT 9:30 W/ [illegible]~~ ~~(TENTATIVE)~~ ~~[illegible] TRIAL AT 2:30~~ ←	㉒ POST-TRIAL MOTIONS, ETC. [illegible] [illegible] :30 ~~[illegible]~~ ~~[illegible] 2 WKS~~	23 MOTIONS TODAY AT 9:30	24	25	26
27	28 OUR MCGOWAN'S CALLENDER AT 10 A 2 WKS	29	30			

July 1982

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
				1 Dominion Day (Canada)	2	3
4 Independence Day	5 THREE CRIMINAL PLEAS AT 1:30 IN MERIDIAN	6 PRELIMINARY INJUNCTION AT 9:30 TWO CRIM. PLEAS AT 1:30	7	8	9	10
11	12 HIGHWAY PATROL MOTION TOMORROW AT 10 Holiday (N. Ireland)	13 ~~AT~~ ~~LUNCH~~ AT 12½ APPT. AT 2 IN HATTIESBURG	14 T [illegible] SPECIAL NATURALIZATION AT 10 AM. JACKSON THIS AFTERNOON	15 JACKSON NON-JURY PRE-TRIALS AT 8:30	16 HATTIESBURG PRE-TRIALS AT 9:30	17
18	19	20 NEYREY MATTER 10	21 MATHIS TODAY AT 9:30	22	23	24 VACATION BEGINS TODAY ~~THRU~~ to SUNDAY AUG. 8th
25	26	27	28 OUT	29	30	31

August 1982

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 Holiday (Republic of Ireland)	3	4 OUT	5	6	7
8 VACATION ENDS TODAY	9	10	11 MOTIONS TODAY AT 9:30	12 ~~MOTIONS IN ASBESTOS CASES AT 9:30 - STAY; SUMMARY JUDGMENT; RULE 12~~	13	14
15	16 JACKSON NON-JURY CALENDAR AT 10 A.M	17	18 WILMA WASHINGTON AT 5	19 APPT. AT 5 !	20 ~~POSSIBLE ASBESTOS MOTION~~ THIS AFTERNOON ASBESTOSIS MOTION AT PAUL FRANKE - 3-7	21
22	23	24	25	26	27 BARNARD'S APPT. AT 11	28
29	30 Late Summer Holiday (U.K., not Scotland)	31 VICKSBURG PRETRIALS AT 10				

September 1982

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			1 GRADY JOLLY'S SWEARING AT 2:30 P.M. — THINGS TO FOLLOW	2 HEARING ON PARKER [illegible] AT [illegible] 1:30 — [illegible] CASE	3 TO LARRY'S	4 1st DOVE SEASON IN ~~NORTH~~ MISS. THRU OCT. 3rd
5	(6) HOLIDAY Labor Day	7 Judge Russell's Long (8 wks) case [illegible] Jordan	MOTIONS TODAY AT 9:30	9	10 MOTIONS TODAY AT 9:30	11
12	13 Biloxi — JURY CALENDAR AT 9:30 — 3 WKS SNOWDEN CRIMINAL CASE FIRST	14	15 ~~[illegible]~~ TODAY THRU 17th	16 ~~[illegible]~~ WIGGINS TODAY	17	18 Rosh Hashanah
19	20	21	22 WILMAN WASHINGTON TODAY — 24th & BRANNAN AT 3	23 HARD AT 10AM	24	25
26	27 Yom Kippur	28	29	30		

October 1982

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	NOW IS THE TIME TO ORDER A 1983 Note-a-Date® CALENDAR FROM YOUR DEALER				1	2 BANQUET AT 7PM HONORING JUDGE GRANT — ROYAL D'OR VERSAILLES RM.
3	4 MEETING MISS. CHEMICAL VS. CHEMICO AT 4.	5 ~~ANDREWS MOTIONS AT 9:30~~ LUNCHEON APPT AT 12	6 MEETING AT 6 AT HOUSE — Lon, et al	7 MOTIONS TODAY AT 9:30	8	9
10	11 DISTRICT JUDGES' WORKSHOP IN GALVESTON THRU 13th Columbus Day Thanksgiving Day (Canada)	12	13	14	15	16 2nd DOVE SEASON IN MISS. THRU NOV. 7th
17	18 HATTIESBURG CALENDAR AT 10 — 2 WKS	19	20	21	22	23
24	25 ~~MISS CHEMICAL VS. SHELL OIL-TEXTONE~~	26	27	28 CRIMINAL PLEAS TODAY	29 PRELIMINARY INJUNCTION AT — 1 + CRIMINAL PLEAS	30
31 Halloween						

1983

JANUARY

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

FEBRUARY

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28					

MARCH

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

APRIL

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

MAY

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

JUNE

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

JULY

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

AUGUST

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

SEPTEMBER

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

OCTOBER

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

NOVEMBER

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

DECEMBER

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Time Zone and Area Code Map

Name and Address	Telephone	Name and Address	Telephone
ZIP	AREA CODE NUMBER	ZIP	AREA CODE NUMBER
ZIP	AREA CODE NUMBER	ZIP	AREA CODE NUMBER
ZIP	AREA CODE NUMBER	ZIP	AREA CODE NUMBER
ZIP	AREA CODE NUMBER	ZIP	AREA CODE NUMBER
ZIP	AREA CODE NUMBER	ZIP	AREA CODE NUMBER
ZIP	AREA CODE NUMBER	ZIP	AREA CODE NUMBER
ZIP	AREA CODE NUMBER	ZIP	AREA CODE NUMBER
ZIP	AREA CODE NUMBER	ZIP	AREA CODE NUMBER
ZIP	AREA CODE NUMBER	ZIP	AREA CODE NUMBER

Notes CALLED DR. ON FEB 7th at 1:30 - [illegible] [illegible] [illegible] 21st

8th Feb. 10 - 13, 1983

[illegible]

WE - P & 4 BR's

8 - P & 3 ..

G 2 BR's

APRIL 10-13, 1983 - 5th

Cir. Conference of Americana in

Ft. Worth

JAN 7th - LAST DAY OF DEER SEASON WITH DOGS & JAN 8-15 IS LAST OF GUN (DEER) SEASON W/O DOGS.

JAN 16-31st - PRIMITIVE WEAPON SEASON

MISS TURKEY SEASON

MARCH 19 - APRIL 6

APRIL 8 - ~~APRIL~~ MAY 1st.

QUAIL - NOV. 25 - FEB 28

CONF.:

SEPT. 20 or 27 week

TRIAL - 1st WEEK in JAN. Printed in U S A

United States Senate

EVIDENTIARY HEARINGS

RESPONDENT'S EXHIBIT 79

DECLARATION OF BETTY LOU WATKINS

Betty Lou Watkins (formerly Clark) of Gulfport, Mississippi, hereby makes the following declaration:

(1) I have been Judge Walter L. Nixon, Jr.'s secretary since June 7, 1982, and served him in that position in December 1982. Part of my responsibilities included maintenance of banking, accounting, and other financial records.

(2) In that capacity, I often communicated with persons or entities having a business or financial relationship with Judge Nixon and with his accountant(s) who prepared federal disclosure and tax documents. In 1982, I had several communications with employees of W. R. Fairchild Construction Company concerning various aspects of the oil and gas investments of Judge Nixon.

(3) In July 1982, Charles Logan, Judge Nixon's C.P.A. for many years, died. On December 1, 1982, on previous instructions of Judge Nixon, I forwarded to the administratrix of the estate of Charles Logan a "Selection of Successor by Client" form designating Steve Stewart, C.P.A., of Moore & Powell, to continue the professional services formerly rendered by Charles Logan. A copy of this "Selection of Successor by Client" is attached as Exhibit A.

(4) On December 1, 1982, and the days surrounding the designation of Judge Nixon's new accountant, it was my responsibility to gather information needed by the accounting firm,

some of which required communicating with employees of W. R. Fairchild Construction Company concerning the oil and gas investments.

(5) I am aware that on December 1, 1982, at 2:02 p.m., a telephone call was made to Judge Nixon's office telephone number, 601-436-4317, from the office of W. R. Fairchild Construction Company, Inc. Judge Nixon was not in the office that day and, as his secretary, I would have been the person to receive that call.

(6) An examination of Judge Nixon's telephone messages for that day reveals no messages for Judge Nixon from Wiley Fairchild or any of his employees. A copy of these telephone message records for December 1, 1982, is attached as Exhibit B. If the call were for Judge Nixon, I would have recorded it in these records for his attention when he returned.

(7) Based on this information, it is my firm belief that the telephone call from the Fairchild office on December 1, 1982, was received by me and was in response to an inquiry which I had made to W. R. Fairchild Construction Company concerning investment information requested or needed by Judge Nixon's new accountant.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: September 11, 1989

Betty Lou Watkins

Betty Lou Watkins

SELECTION OF SUCCESSOR BY CLIENT

TO: Janice F. Logan, Administratrix of the
Estate of Charles P. Logan

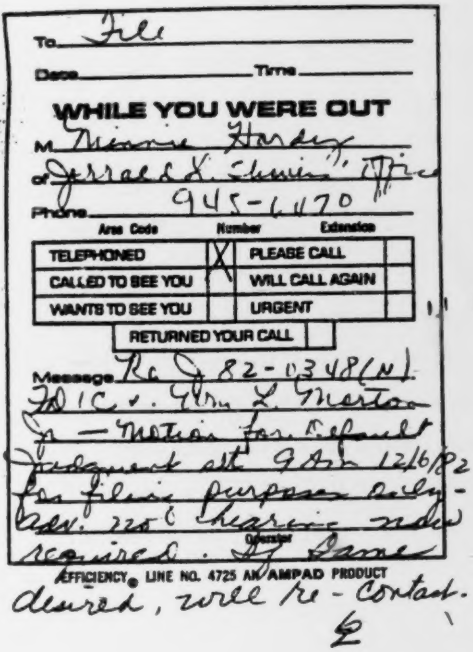
The undersigned selects Steve Stewart (Moore & Powell), C.P.A., to continue the professional services formerly rendered by Charles P. Logan, C.P.A., Deceased, and authorizes delivery to the person named of any of our records and work papers relating to our account in possession of the estate of the deceased.

WALTER NIXON

BY: Betty Lou Clark, Secretary

DATE: December 1, 1982

EXHIBIT A



To File
Date ______ Time ______

WHILE YOU WERE OUT

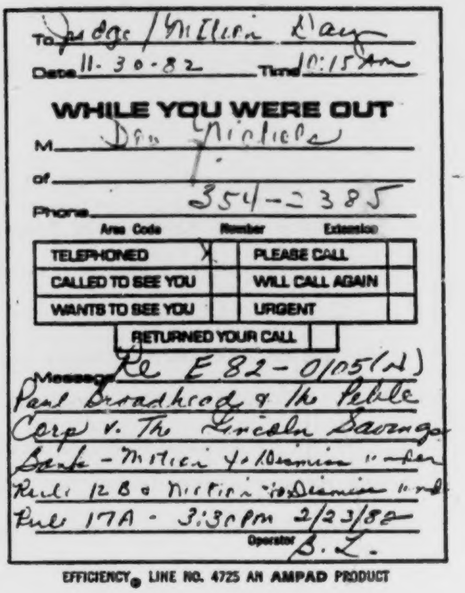
M Minnie Hardy
of Jerrold X. [illegible] Office
Phone 945-6170
Area Code Number Extension

TELEPHONED	☒	PLEASE CALL	☐
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐
RETURNED YOUR CALL	☐		

Message Re J 82-0348(N) FDIC v. Wm L. Merton Jr — Motion for Default Judgment set 9 Am 12/6/82 for filing purposes only - adv. no hearing now required. If same desired, will re-contact.

Operator

EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT



To Judge / Motion Day
Date 11-30-82 Time 10:15 Am

WHILE YOU WERE OUT

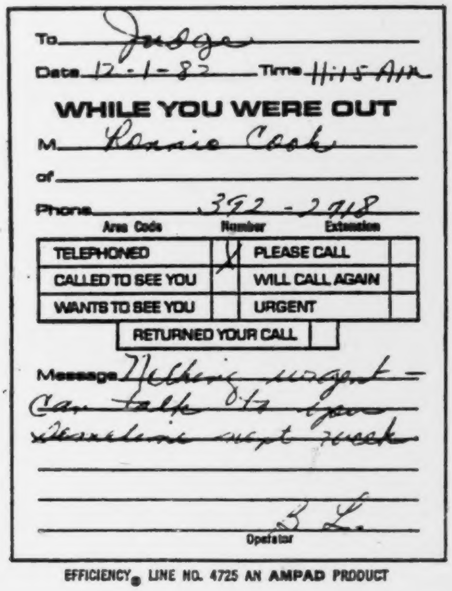
M Dan Nichols
of ______
Phone 354-2385
Area Code Number Extension

TELEPHONED	☒	PLEASE CALL	☐
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐
RETURNED YOUR CALL	☐		

Message Re E 82-0105(N) Paul Broadhead & the Pebble Corp v. The Lincoln Savings Bank - Motion to Dismiss under Rule 12 B & Motion to Dismiss under Rule 17A - 3:30 pm 2/23/82

Operator B. L.

EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT



To Judge
Date 12-1-82 Time 11:15 Am

WHILE YOU WERE OUT

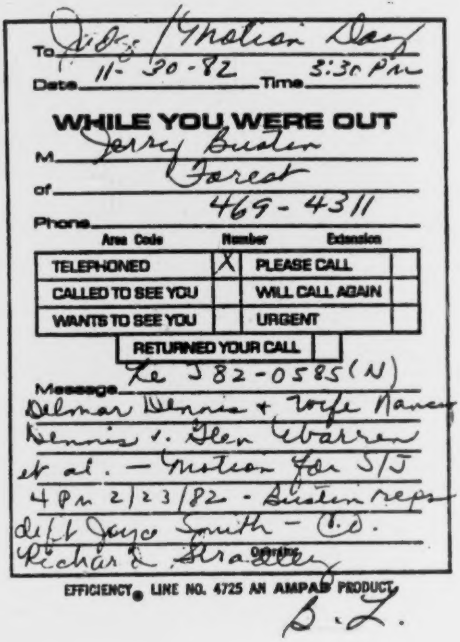
M Ronnie Cook
of ______
Phone 352-2718
Area Code Number Extension

TELEPHONED	☒	PLEASE CALL	☐
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐
RETURNED YOUR CALL	☐		

Message Nothing urgent - Can talk to you Wednesday next week

B. L.
Operator

EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT



To Judge / Motion Day
Date 11-30-82 Time 3:30 Pm

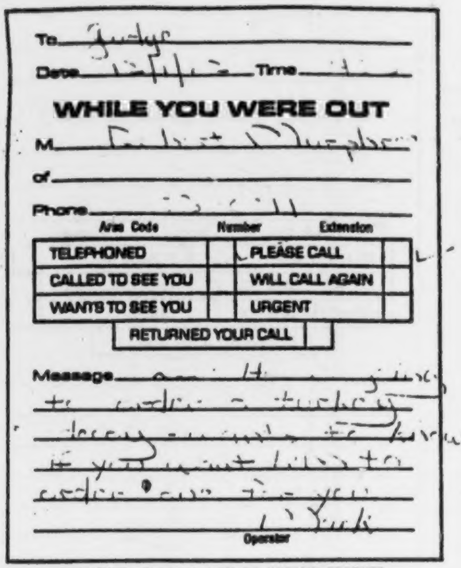
WHILE YOU WERE OUT

M Jerry Buxton
of Forest
Phone 469-4311
Area Code Number Extension

TELEPHONED	☒	PLEASE CALL	☐
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐
RETURNED YOUR CALL	☐		

Message Re J 82-0585(N) Delmar Dennis & wife Nancy Dennis v. Glen Warren et al. — Motion for S/J 4 Pm 2/23/82 - Buxton reps deft Joyce Smith - (c.c.) Richard Stradley

Operator
EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT
B. L.



To Judge

Date 12/1/82 Time [illegible]

WHILE YOU WERE OUT

M [illegible]

of

Phone [illegible]

Area Code Number Extension

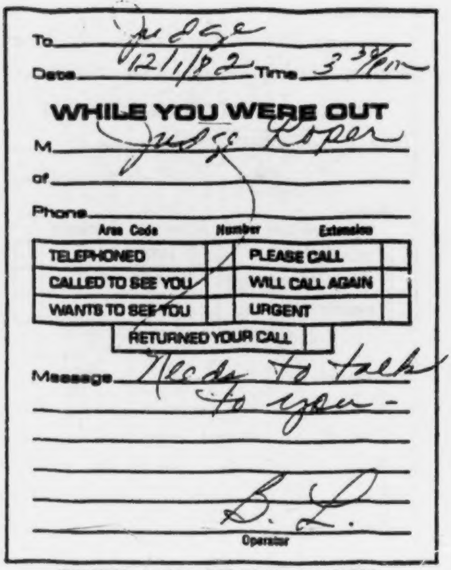
TELEPHONED	☐	PLEASE CALL	☑
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐

RETURNED YOUR CALL ☐

Message [illegible] is going to order a turkey [illegible] wants to know if you want him to order one for you

[illegible] York
Operator

EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT



To Judge

Date 12/1/82 Time 3 35 pm

WHILE YOU WERE OUT

M Judge Roper

of

Phone

Area Code Number Extension

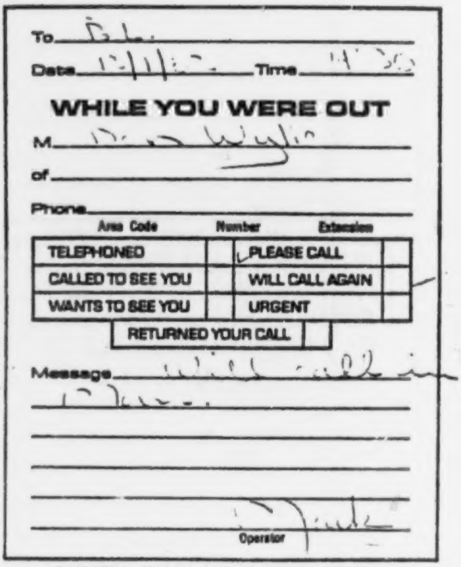
TELEPHONED	☐	PLEASE CALL	☐
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐

RETURNED YOUR CALL ☐

Message Needs to talk to you -

B. L.
Operator

EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT



To [illegible]

Date 12/1/82 Time 4 30

WHILE YOU WERE OUT

M [illegible] Wylie

of

Phone

Area Code Number Extension

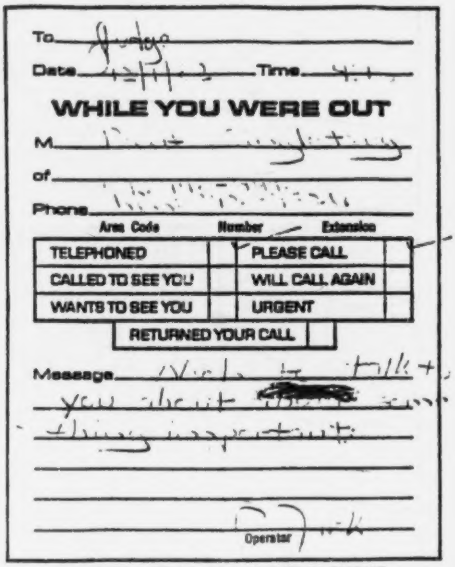
TELEPHONED	☐	PLEASE CALL	☑
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐

RETURNED YOUR CALL ☐

Message Will call in 10 [illegible].

York
Operator

EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT



To Judge

Date 12/1/82 Time [illegible]

WHILE YOU WERE OUT

M [illegible]

of

Phone [illegible]

Area Code Number Extension

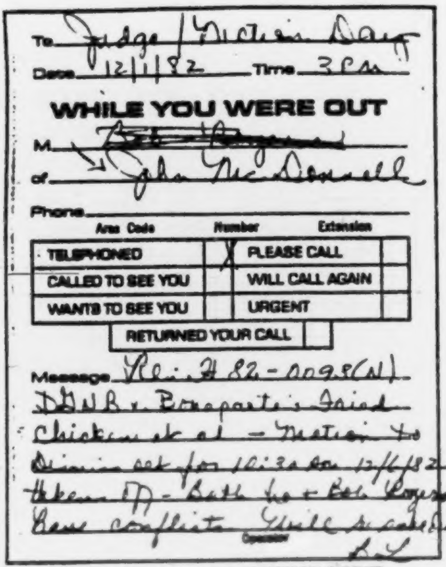
TELEPHONED	☐	PLEASE CALL	☑
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐

RETURNED YOUR CALL ☐

Message Needs to talk to you about [redacted] something important.

York
Operator

EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT



To Judge / [illegible]

Date 12/1/82 Time 3 pm

WHILE YOU WERE OUT

M. ~~Bob Rogers~~

of John McDonnell

Phone

Area Code Number Extension

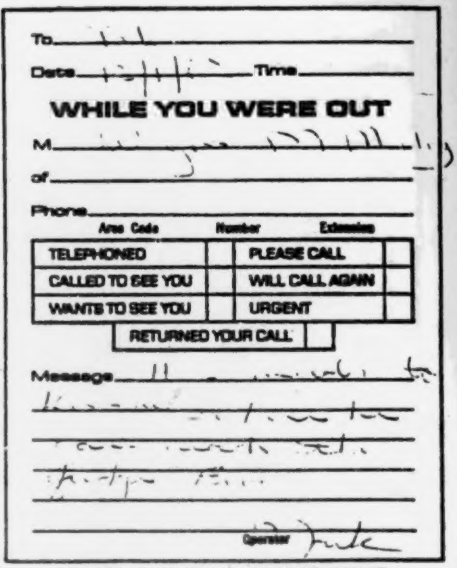
TELEPHONED	☒	PLEASE CALL	☐
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐

RETURNED YOUR CALL ☐

Message Re: # 82-0098(N) DGNB v. Bonaparte's Fried Chicken et al — Motion to Dismiss set for 10:30 am 12/6/82 taken off — Both he + Bob Rogers have conflicts. Will reschedule.

Operator BL

EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT



To [illegible]

Date [illegible] Time

WHILE YOU WERE OUT

M. [illegible]

of

Phone

Area Code Number Extension

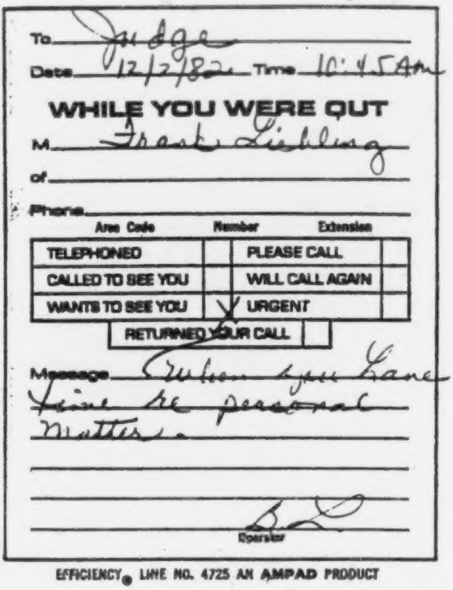
TELEPHONED	☐	PLEASE CALL	☐
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐

RETURNED YOUR CALL ☐

Message [illegible]

Operator [illegible]

EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT



To Judge

Date 12/2/82 Time 10:45 Am

WHILE YOU WERE OUT

M. Frank Liebling

of

Phone

Area Code Number Extension

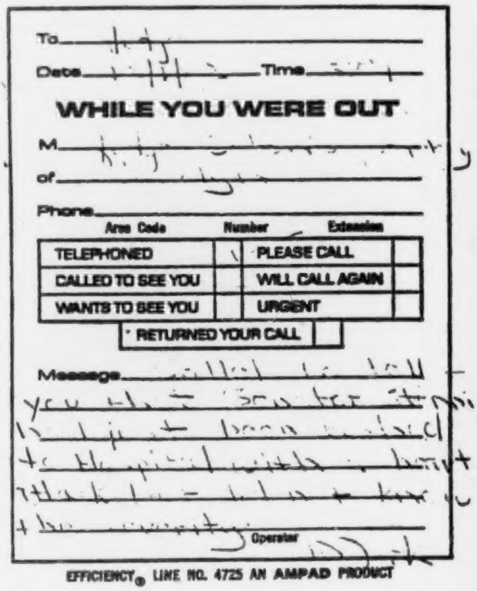
TELEPHONED	☐	PLEASE CALL	☐
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☒	URGENT	☐

RETURNED YOUR CALL ☐

Message Call when you have time re personal matters.

Operator BL

EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT



To [illegible]

Date [illegible] Time [illegible]

WHILE YOU WERE OUT

M. [illegible]

of [illegible]

Phone

Area Code Number Extension

TELEPHONED	☑	PLEASE CALL	☐
CALLED TO SEE YOU	☐	WILL CALL AGAIN	☐
WANTS TO SEE YOU	☐	URGENT	☐

RETURNED YOUR CALL ☐

Message called to tell you [illegible] to the hospital [illegible]

Operator [illegible]

EFFICIENCY® LINE NO. 4725 AN AMPAD PRODUCT

November 1982

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
	1 MEETING AT 2 P.M. WITH MS. [illegible] OF O.S. PAPER	2 Election Day	3 MOTIONS TODAY AT 9:30	4 TO JACKSON TODAY — MOOT COURT THIS EVENING AT ~~6~~ ~~5:30~~ 6	5 RECEPTION 5:30 – 7:30	6 FOOTBALL GAME AT [illegible] VS. [illegible] MISS
7	8 VICKSBURG CALENDAR AT 1:30 - 2 [illegible]	9	10	11 [illegible] Party Veterans Day Remembrance Day (Canada)	12 PLEA CHARGES AT 10 AM. IN VICKSBURGH	13 MISS. DEER SEASON W/O DOGS THRU 19th
14	15	16	17	18 LAW CLERK INTERVIEWS 10-12 IN JACKSON	19	20 DEER SEASON (DOGS) THRU DEC. 1st [illegible] ?
21	22	23	24	25 QUAIL SEASON THRU FEB 28 Thanksgiving Day	26	27
28	29 TRO AT 10 RALPH OFF THRU WED	30 TO DEWITT YOAK'S THIS AFTERNOON IF POSSIBLE				

December 1982

½ of 100 yds.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		TO PADGETT YORK'S THIS AFTERNOON IF POSSIBLE	1 LAST DAY OF [illegible] DEER SEASON QUAIL HUNT WITH PADGETT YORK TODAY + TOMORROW	2	3	4 BOY SCOUT BANQUET
5	6 MOTIONS AT 9:30	7	8 MOTIONS TODAY AT 9:30	9	10 PLEASANTON TEX. - 1:30 P.M. (ROY HINDS) CHARLOTTE, TEX. 78011	DUCK SEASON - TODAY
12	13 OUT	14 OUT	15 DUCK SEASON (2nd) THRU JAN 31st	16	17 SAM + [illegible] AT 6:30.	Hanukkah 18 2nd DEER SEASON (DOGS) THRU JAN. 7th
19	20	21	22	23	24	25 3rd DOVE SEASON THRU JAN. 10th Christmas
26	27 Boxing Day (U.K., not Scotland)	28	29	30	31	

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 81

1. ROYALS NOT CHARGED
2. PORTER LAWSUIT $2669 PAID
3. DREW INDICTED
4. $7,500 PAID
5. ROYALS VISIT
6. INGRAM BRINGS ORDER
7. CASE RETURNED TO ACTIVE DOCKET
8. HOLMES/McKENZIE VISIT

JUNE 22 - KRONE RELEASED

NOV. 18 - VISIT KRONE

NOV. 25 - ROYALS VISIT

DEC. 1 - FAIRCHILD CALL

United States Senate
EVIDENTIARY HEARINGS
RESPONDENT'S EXHIBIT 80

State·Metro
The Clarion-Ledger JACKSON DAILY NEWS
DEATHS – 2
STOCKS – 5-6
BUSINESS – 8
B
February 7, 1987 • Saturday

Judge Nixon prosecutor: Case may curb grand jury cooperation

By JERRY MITCHELL
Clarion-Ledger Northeast Mississippi Bureau

OXFORD – The February 1986 conviction of U.S. District Court Judge Walter L. Nixon Jr. on perjury charges has had a chilling effect on people cooperating with federal grand jury investigations, the lawyer who prosecuted Nixon said Friday.

Reid Weingarten of the Public Integrity Division of the U.S. Department of Justice told a University of Mississippi law school class that the Nixon case will curtail the number of people willing to give voluntary grand jury testimony.

"I'm certain it will happen," said Weingarten. "It's happened already."

Nixon became the second sitting federal judge in the 198 year history of the federal judiciary to be found guilty of crimes committed while in office.

He was convicted Feb. 9, 1986, of two counts of giving perjured testimony during a July 1984 voluntary appearance before a special federal grand jury investigating public corruption in south Mississippi.

Nixon has appealed the conviction and the 5th U.S. Circuit Court of Appeals heard arguments in the case Dec. 4. The appeals court has not rendered a decision.

Nixon has voluntarily relinquished his judicial and administrative powers and continues to draw his $76,000 salary.

Nixon appeared before the grand jury without immunity, Weingarten said, and some defense attorneys may advise clients to not cooperate because their testimony can be used against them.

The trappings of his office may have caused Nixon to feel it was "more important to maintain his position" than to be honest with the grand jury, the federal prosecutor said.

Weingarten, 36, said the Nixon investigation involved "good ol' boy politics."

Nixon was convicted of lying to the grand jury when he denied discussing a drug case pending against Drew Fairchild, son of Hattiesburg businessman Wiley Fairchild, with Bud Holmes, former district attorney for Forrest County, and when he denied attempting to influence the case.

Holmes, the chief prosecution witness against Nixon, was indicted on obstruction of justice and perjury charges stemming from the grand jury investigation. He pleaded guilty to a reduced misdemeanor charge of misconduct before a federal grand jury and was fined $10,000 and sentenced to a one-year jail term. Holmes is appealing the jail portion of his sentence before the 5th U.S. Circuit Court of Appeals.

Weingarten said the way Holmes manipulated the younger Fairchild's case was "almost breathtaking."

Holmes testified that he indicted the younger Fairchild in order to help his friend, Bill Porter of Hattiesburg, collect legal fees for representing Drew Fairchild in federal court.

"That chilled my blood," Weingarten said.

Holmes testified during Nixon's trial that he passed the drug case to the inactive files to please Nixon, although the judge did not ask him to take any action.

Looking back on the trial, Weingarten said he had no quarrel with the jury for acquitting Nixon on charges of accepting an illegal gift because the case was not proven.

The goverment charged Nixon with accepting oil and gas royalty interests from Wiley Fairchild in exchange for the judge's help in the younger Fairchild's drug case. Testimony showed the interests were transferred before the younger Fairchild was arrested and the jury found nothing improper with the transaction.

The most serious cases he prosecutes are against federal judges, said Weingarten, who also prosecuted U.S. District Judge Alcee Hastings of Miami who was acquitted of federal bribery charges.

"There's this mystical feeling that federal courts should be spotlessly clean." When a federal judge is charged, he said, "no one celebrates."

Weingarten downplayed the importance of the case against Nixon, saying it had been exaggerated by the media.

"I was dismayed at the conception … that this was the biggest trial in Mississippi" since civil rights trials of the 1960s, he said. "I never had that sense."